

1 (1:57 p.m.)

2 **THE COURT:** Good afternoon. Be seated, please. Once
3 situated, the clerk will call the role of potential jurors.

4 **THE CLERK:** Members of the petit jury, as I call your
5 juror number, will you please stand, orally acknowledge your
6 presence, and be seated, please.

7 **THE CLERK:** Juror No. 363.

8 **PROSPECTIVE JUROR:** Here.

9 **THE CLERK:** Juror No. 361.

10 **PROSPECTIVE JUROR:** Here.

11 **THE CLERK:** Juror No. 352.

12 **PROSPECTIVE JUROR:** Here.

13 **THE CLERK:** Juror No. 347.

14 **PROSPECTIVE JUROR:** Here.

15 **THE CLERK:** Juror No. 341.

16 **PROSPECTIVE JUROR:** Here.

17 **THE CLERK:** Juror No. 339.

18 **PROSPECTIVE JUROR:** Here.

19 **THE CLERK:** Juror No. 333.

20 **PROSPECTIVE JUROR:** Here.

21 **THE CLERK:** Juror No. 329.

22 **PROSPECTIVE JUROR:** Here.

23 **THE CLERK:** Juror No. 321.

24 **PROSPECTIVE JUROR:** Here.

25 **THE CLERK:** Juror No. 318.

1 PROSPECTIVE JUROR: Here.

2 THE CLERK: Juror No. 311.

3 PROSPECTIVE JUROR: Here.

4 THE CLERK: Juror No. 307.

5 PROSPECTIVE JUROR: Here.

6 THE CLERK: Juror No. 302.

7 PROSPECTIVE JUROR: Here.

8 THE CLERK: Juror No. 296.

9 PROSPECTIVE JUROR: Here.

10 THE CLERK: Juror No. 293.

11 PROSPECTIVE JUROR: Here.

12 THE CLERK: Juror No. 287.

13 PROSPECTIVE JUROR: Here.

14 THE CLERK: Juror No. 282.

15 PROSPECTIVE JUROR: Here.

16 THE CLERK: Juror No. 276.

17 PROSPECTIVE JUROR: Here.

18 THE CLERK: Juror No. 267.

19 PROSPECTIVE JUROR: Here.

20 THE CLERK: Juror No. 264.

21 PROSPECTIVE JUROR: Here.

22 THE CLERK: Juror No. 256.

23 PROSPECTIVE JUROR: Here.

24 THE CLERK: Juror No. 255.

25 PROSPECTIVE JUROR: Here.

1 THE CLERK: Juror No. 241.
2 PROSPECTIVE JUROR: Here.
3 THE CLERK: Juror No. 236.
4 PROSPECTIVE JUROR: Here.
5 THE CLERK: Juror No. 234.
6 PROSPECTIVE JUROR: Here.
7 THE CLERK: Juror No. 232.
8 PROSPECTIVE JUROR: Here.
9 THE CLERK: Juror No. 226.
10 PROSPECTIVE JUROR: Here.
11 THE CLERK: Juror No. 219.
12 PROSPECTIVE JUROR: Here.
13 THE CLERK: Juror No. 218.
14 PROSPECTIVE JUROR: Here.
15 THE CLERK: Juror No. 216.
16 PROSPECTIVE JUROR: Here.
17 THE CLERK: Juror No. 205.
18 PROSPECTIVE JUROR: Here.
19 THE CLERK: Juror No. 204.
20 PROSPECTIVE JUROR: Here.
21 THE CLERK: Juror No. 202.
22 PROSPECTIVE JUROR: Here.
23 THE CLERK: Juror No. 200.
24 PROSPECTIVE JUROR: Here.
25 THE CLERK: Juror No. 198.

PROSPECTIVE JUROR: Here.

THE CLERK: Juror No. 197.

PROSPECTIVE JUROR: Here.

THE CLERK: Jury number 192.

PROSPECTIVE JUROR: Here.

THE CLERK: Juror No. 188.

PROSPECTIVE JUROR: Here.

THE CLERK: Juror No. 184.

PROSPECTIVE JUROR: Here.

THE CLERK: Juror No. 176.

PROSPECTIVE JUROR: Here.

THE CLERK: Juror No. 175.

PROSPECTIVE JUROR: Here.

THE CLERK: Juror No. 165.

PROSPECTIVE JUROR: Here.

THE CLERK: Juror No. 162.

PROSPECTIVE JUROR: Here.

THE CLERK: Juror No. 151.

PROSPECTIVE JUROR: Here.

THE CLERK: Juror No.number 150.

PROSPECTIVE JUROR: Here.

THE CLERK: Juror No. 146.

PROSPECTIVE JUROR: Here.

THE CLERK: Juror No. 130.

PROSPECTIVE JUROR: Here.

1 THE CLERK: Juror No. 128.
2 PROSPECTIVE JUROR: Here.
3 THE CLERK: Juror No. 126.
4 PROSPECTIVE JUROR: Here.
5 THE CLERK: Juror No. 117.
6 PROSPECTIVE JUROR: Here.
7 THE CLERK: Juror No. 108.
8 PROSPECTIVE JUROR: Here.
9 THE CLERK: Juror No. 107.
10 PROSPECTIVE JUROR: Here.
11 THE CLERK: Juror No. 101.
12 PROSPECTIVE JUROR: Here.
13 THE CLERK: Juror No. 98.
14 PROSPECTIVE JUROR: Here.
15 THE CLERK: Juror No. 96.
16 PROSPECTIVE JUROR: Here.
17 THE CLERK: Juror No. 91.
18 PROSPECTIVE JUROR: Here.
19 THE CLERK: Juror No. 83.
20 PROSPECTIVE JUROR: Here.
21 THE CLERK: Juror No. 78.
22 PROSPECTIVE JUROR: Here.
23 THE CLERK: Juror No. 76.
24 PROSPECTIVE JUROR: Here.
25 THE CLERK: Juror No. 71.

1 PROSPECTIVE JUROR: Here.
2 THE CLERK: Juror No. 67.
3 PROSPECTIVE JUROR: Here.
4 THE CLERK: Juror No. 65.
5 PROSPECTIVE JUROR: Here.
6 THE CLERK: Juror No. 62.
7 PROSPECTIVE JUROR: Here.
8 THE CLERK: Juror No. 56.
9 PROSPECTIVE JUROR: Here.
10 THE CLERK: Juror No. 51.
11 PROSPECTIVE JUROR: Here.
12 THE CLERK: Juror No. 49.
13 PROSPECTIVE JUROR: Here.
14 THE CLERK: Juror No. 48.
15 PROSPECTIVE JUROR: Here.
16 THE CLERK: Juror No. 46.
17 PROSPECTIVE JUROR: Here.
18 THE CLERK: Juror No. 49.
19 PROSPECTIVE JUROR: Here.
20 THE CLERK: Juror No. 37.
21 PROSPECTIVE JUROR: Here.
22 THE CLERK: Juror No. 33.
23 PROSPECTIVE JUROR: Here.
24 THE CLERK: Juror No. 26.
25 PROSPECTIVE JUROR: Here.

1 THE CLERK: Juror No. 21.

2 PROSPECTIVE JUROR: Here.

3 THE CLERK: Juror No. 16.

4 PROSPECTIVE JUROR: Here.

5 THE CLERK: Juror No. 11.

6 PROSPECTIVE JUROR: Here.

7 THE CLERK: Juror No. 5.

8 PROSPECTIVE JUROR: Here.

9 THE CLERK: And Juror No. 1.

10 PROSPECTIVE JUROR: Here.

11 THE CLERK: Are there any other jurors present whose
12 number I have not called? No response.

13 Can you all please stand and raise your right hand for me,
14 please.

15 (Jury venire sworn.)

16 THE CLERK: Thank you. You may be seated.

17 THE COURT: Well, good afternoon, ladies and
18 gentlemen. You've been brought to this courtroom to
19 participate in the selection of a jury that will hear and
20 decide a criminal case.

21 In this case, a grand jury has indicted a defendant and
22 charged him with the commission of the crimes of sexual
23 exploitation of a child, possession of child pornography and
24 cyberstalking. The offenses are alleged to have occurred on
25 various dates between September 1, 2017 and February 3, 2023,

1 in Maryland.

2 The defendant has entered pleas of not guilty to each of
3 these charges. I'm now going to ask you a series of questions.
4 Your answers to these questions will aid me in the process me
5 of selecting the persons who will serve as the jurors in this
6 case. Please listen carefully to the questions and follow
7 along on your answer sheet which has been provided to each of
8 you.

9 Please stop right now and write your juror number in the
10 space indicated on your answer sheet. Your personal juror
11 number.

12 Then, as I read the questions, please write down whether
13 you have a "yes" or "no" answer to each question posed. After
14 you have supplied a "yes" or "no" answer to the question, you
15 may wish to add a comment or two that will allow me to prompt
16 your memory later when we meet in person and I ask you to
17 explain your answer.

18 After I have asked all of my questions and you have
19 recorded your respective answers, then you will leave the
20 courtroom as a group, and you will wait in a room nearby.
21 Actually, it's another courtroom. And then, you will be
22 brought back to this courtroom one by one to meet with me and
23 to review the answers that you've provided on your answer
24 sheet.

25 Once you are back in this courtroom, your fellow jurors

1 will not be present, but the parties, their lawyers, members of
2 the public, court staff and I will be here, and we'll hear your
3 individual answers to the questions.

4 Now, that said, we will exclude the public from hearing
5 your answers on any particularly personal topics or issues. We
6 are ready to begin with the process. Ready to begin with the
7 questions.

8 Here's the first question. Open up your answer sheet.
9 You'll be able to see the question as I'm asking.

10 Number one: My name is James K. Bredar. I am the judge
11 who will be presiding during the trial of this case. Do any of
12 you know me or any member of your family? I better get that
13 right. Do any of you know me or any member of my family? I
14 assume you do know the members of your own family. I'm going
15 to give you credit for that.

16 (Laughter).

17 Do you know me or do you know any member of my family?

18 Now, you look down there and there's a place for you to
19 mark either "yes" or "no" and you mark it. And if there's
20 something you need to elaborate on then you scribble a little
21 note that will prompt me to remind you that you had something
22 more to say. Now, we're not going to speak to you individually
23 right now. We're going to move on to the next question.

24 So you record your answer and now we're ready to move on
25 to the next question.

1 Number two: This case is styled or titled, The United
2 States of America v. Christopher Kenji Bendann. Case Number
3 JKB-23-278. Have any of you ever heard or read of this case?
4 Have any of you ever read or heard of this case?

5 Number three: Would counsel for the Government please
6 rise and turn and face the jury venire, first in the jury box
7 and then in the gallery.

8 The United States Government is represented by Assistant
9 United States Attorneys Colleen E. McGuinn and Kim Y. Hagan.
10 They are the lawyers who will prosecute this case. Do you know
11 or have you had any dealings with Ms. McGuinn or Ms. Hagan?

12 Counsel, you may be seated.

13 Would counsel for the Defendant please rise and face the
14 jury box and then the gallery. Christopher Kenji Bendann is
15 represented by Gary E. Proctor, raise your hand, Mr. Proctor,
16 who practices law in the law firm of the Offices of Gary E.
17 Proctor, and by Christopher C. Nieto who practices law in the
18 firm of Nieto Law Offices. Do you know or have you had any
19 dealings with either Mr. Proctor or his firm? Do you know or
20 have you had any dealings with either Mr. Nieto or his law
21 firm?

22 Thank you, counsel, you may be seated.

23 Would the Defendant please rise and face the jury box and
24 then in the gallery. Ladies and gentlemen, the Defendant in
25 this case is Christopher Kenji Bendann. Do you know or have

1 you had any dealings with the Defendant Christopher Kenji
2 Bendann or, to your knowledge, any member of his family or his
3 friends or his associates?

4 Thank you, Mr. Bendann. You may be seated.

5 Question six: Ladies and gentlemen, are you, any member
6 of your family or any close associates, related to any judge,
7 law clerk or court personnel of this federal court? I'm not
8 asking you if you're connected with or know a judge in any
9 court or someone who works in the circuit court for Baltimore
10 County or something like that. That's not the question.

11 The question is whether you, any member of your family or
12 any of your closest associates is related to any judge, law
13 clerk or court personnel of this federal court, the United
14 States District Court for the District of Maryland?

15 Number seven: Ladies and gentlemen, the following people
16 may be witnesses in this case or may be mentioned by witnesses.
17 Please listen carefully and see if you recognize any of these
18 names. If you do, mark "yes" and then scribble down the name
19 that you think you heard or that you think you might know.
20 We'll go through the list twice so you have every opportunity
21 to hear the names. There are 20 names that I'm going to now
22 read. I'll start now. [REDACTED]. [REDACTED]. Angela
23 Johnson. Henry Smyth. Chris Feiss, F-E-I-S-S. Stacy Halpert.
24 Detective Shannon Markel, BCPD. DF William Paulemon,
25 P-A-U-L-E-M-A-N, FBI. Jeff John Byram, FBI, Quantico. Agent

1 Eric Oberly, FBI. DeAnna Komber, K-O-M-B-E-R, employed by
2 Apple. Agent Calista Walker, FBI. ████████████████████. James
3 Schroeder. Will Godine or Godine, G-O-D-I-N-E. Jack Stuzin,
4 S-T-U-Z-I-N. Tyler Witherspoon, Charlotte Hoffberger. Wallace
5 Halpert. Riley Seelert, S-E-E-L-E-R-T.

6 I'm going to say the names a second time. ████████████████████.
7 ████████████████████. Angela Johnson. Henry Smyth. Christopher
8 Feiss. Stacy Halpert. Detective Shannon Markel. DF William
9 Paulemon. Jeff John Byram. Agent Eric Oberly. DeAnna Komber.
10 Agent Calista Walker. ████████████████████. James Schroeder. Will
11 Godine. Jack Stuzin. Tyler Witherspoon. Charlotte
12 Hoffberger. Wallace Halpert. Riley Seelert.

13 If you think you recognize one of those names as someone
14 that you may know, mark "yes" and scribble down the name.

15 Question eight: Some of you may have previously served as
16 jurors in the trials of criminal or civil cases in either state
17 or federal court. If you are selected to serve in this case,
18 it would be your obligation to put aside and not be influenced
19 by anything that happened when you served as a juror in an
20 earlier case.

21 If you have previously served as a juror, is there
22 anything about that prior experience that would make it
23 difficult for you or that would influence you in your
24 deliberations if you served as a juror in this case?

25 Is there anything about that prior experience as a juror

1 that would make it difficult for you or that would influence
2 you in your deliberations if you served as a juror in this
3 case?

4 Question nine: Similarly, some of you may have previously
5 served on a grand jury in either state or federal court. If
6 you are selected to serve in this case, it would be your
7 obligation to put aside and not be influenced by anything that
8 happened when you served on a grand jury. If you have
9 previously served on a grand jury, is there anything about that
10 prior experience that would make it difficult for you or that
11 would influence you in your deliberations if you served as a
12 juror in this case?

13 If you have previously served on a grand jury, is there
14 anything about that prior experience that would make it
15 difficult for you or that would influence you in your
16 deliberations if you served as a juror in this case?

17 Question 10: A few minutes ago you heard me give a very
18 brief description of this case. Is there anything in that
19 brief description that made you realize it would be difficult
20 for you to keep an open mind and to serve as a fair and
21 impartial juror in the trial of this case?

22 Question 11: Do you know Erek L. Barron, the United
23 States Attorney for the District of Maryland, or any of the
24 assistant United States attorneys for this district, or any
25 other employees of the United States Attorney's Office?

1 Question 12: Have you or has any member of your immediate
2 family or any of your closest associates ever been employed by
3 the United States Department of Justice, the Office of the
4 State's Attorney, the Maryland State Attorney General's Office,
5 or any state, local or federal law enforcement agency?

6 Now, let me remind you that this question pertains only to
7 members of your immediate family or any of your closest
8 associates, however you define that. But we are searching for
9 close associations.

10 So, once again, have you or has any member of your
11 immediate family or any of your closest associates ever been
12 employed by the U.S. Department of Justice, the Office of the
13 State's Attorney, the Maryland State Attorney General's Office,
14 or any state, local, or federal law enforcement agency?

15 If you're wondering what I'm doing, I'm watching to see if
16 people have stopped writing. And I don't want to start the
17 next question while many people are still writing. So I think
18 we're good.

19 Thirteen: Have you, any member of your immediate family
20 or any of your closest associates ever worked for a private
21 agency or company with police, security or investigative
22 functions, such as, a private investigative firm or a company
23 that provides security services? You, any member of your
24 immediate family or any of your closest associates.

25 Okay, 14: Have you, any member of your immediate family,

1 any of your closest associates ever been employed by a state or
2 federal court, the Federal Public Defender, a state public
3 defender, a private criminal defense attorney, or a
4 court-related agency, such as a sheriff's office, a clerk's
5 office, probation and parole office, United States marshal's
6 office, pretrial services, bail agency, or similar department
7 or organization. That's you, any member of your immediate
8 family or any of your closest associates.

9 Question 15: Have you or has any member of your immediate
10 family or your closest associates ever been involved in a legal
11 dispute with the Government, with a law enforcement agency, or
12 with any specific law enforcement officer or agent?

13 Ever been involved in a legal dispute with the government,
14 with a law enforcement agency, or with any specific law
15 enforcement officer or agent?

16 Okay. So, ladies and gentlemen, this next question is a
17 little bit different. It has many parts to it. Please listen
18 carefully.

19 Next I'm going to ask several questions together. And if
20 you have a "yes" answer to any of these questions that are
21 contained within 16, then please mark "yes" for this question
22 on page 12, which is three pages further.

23 If you turn over to page 12, you'll see that only then is
24 there a spot to mark "yes" or "no" in the middle of page 12.

25 But backing up to page 9 where we were, Question 16. The

1 subquestions I'm going to ask you are lettered. And if you
2 have a "yes" or "no" answer, you should have a "yes" or "no"
3 answer to each one of these, probably best to go ahead and
4 write "yes" or "no" right at the end of the sentence on your
5 answer sheet there. And then, if you have a "yes" answer, a
6 little explanatory note if that would help you later. You
7 don't have to write that note but if you want to you can.
8 Okay.

9 So Question 16A, here we go: Have you or has any member
10 of your immediate family or your closest associates ever been
11 the victim of a crime? Write a quick "yes" or "no" right after
12 the sentence. And then if you have some elaboration you can
13 write a little note there. Don't try to describe huge, large
14 events. just something so if I read it and read it back to
15 you, it'll trigger your memory and then you can tell me about
16 it.

17 For instance, maybe your car was broken into at some
18 point. You would just write car break in. And then we would
19 hear about it in greater detail later.

20 Okay. Question 16B: Have you or has any member of your
21 immediate family or your closest associates ever been a witness
22 to a crime?

23 16C: Have you or any member of your immediate family or
24 your closest associates ever been accused of criminal conduct,
25 been the subject of a criminal investigation, or been convicted

1 of committing a crime?

2 Have you or has any member of your immediate family or
3 your closest associates ever been accused of criminal conduct,
4 been the subject of a criminal investigation, or been convicted
5 of committing a crime?

6 16D: Have you or any member of your immediate family or
7 close associates ever been a witness for the prosecution or for
8 the defense in the investigation or the trial of a criminal
9 case?

10 16E: Specifically, in this case, the allegations include
11 those of sexual abuse. Has any member of your immediate family
12 or closest associates ever been a victim, a witness, accused or
13 convicted of a crime of a sexual nature?

14 Any member of your immediate family or closest associates
15 ever been a victim, a witness, been accused or convicted of a
16 crime of a sexual nature?

17 16F: The Defendant in this case is Asian American. Do
18 you hold any beliefs related to race, color, religion, national
19 origin or other personal attributes that would make it
20 difficult for you to render a fair and impartial verdict based
21 solely on the evidence and the law.

22 16G: Do you hold any beliefs as to sexual orientation
23 that would make it difficult for you to render a fair and
24 impartial verdict based sole on the evidence and the law?

25 16H: Do you hold any beliefs as to crimes involving

1 children that would make it difficult for you to render a fair
2 and impartial verdict based solely on the evidence and the law?

3 16I: As part of the evidence in this case, you may see
4 images of a sexual nature that are graphic. Is there anything
5 about viewing such images that would make it difficult for you
6 to render a fair and impartial verdict based solely on the
7 evidence and the law?

8 16J: The allegations in this case occurred when both the
9 Defendant and the alleged victim were either employed by or a
10 student at the Gilman School on Roland Avenue in Baltimore
11 City. Have any of you or a family member or a close associate
12 attended, been employed by or otherwise been associated with
13 the Gilman School?

14 Have you or a family member or a close associate attended,
15 been employed by or otherwise been associated with the Gilman
16 School?

17 Now, ladies and gentlemen, if you had a "yes" answer to
18 any of the questions under number 16, please go ahead and mark
19 here "yes." If you had no "yes" answers to any of the
20 subquestions under 16, simply mark "no" here.

21 Question 17: Has any member of your immediate family or
22 closest associates ever attended law school, studied the law or
23 criminal justice or had legal training?

24 18: Do you hold any philosophical, religious or moral
25 views that would prevent you from judging the conduct of

1 another person?

2 19: Do you have any views concerning the administration
3 of the criminal justice system, including the courts, that
4 would affect your ability to render a fair and impartial
5 verdict if you were selected to serve as a juror in this case?

6 20: Do you, any member of your family or any of your
7 close friends belong to any group that advocates a change in
8 our criminal justice system or our criminal sentencing
9 guidelines, including any group which advocates a position on
10 the question of whether prison sentences for offenses involving
11 children should be lengthened or shortened?

12 21: Do you or any member of your family or closest
13 associates belong to or participate in any crime prevention
14 groups, such as neighborhood watch organizations?

15 22: Would you tend to give greater or lesser weight to
16 the testimony of a law enforcement officer or agent simply
17 because that person was a law enforcement officer or agent?

18 23: Do you have any concerns or beliefs about laws
19 relating to crimes that involve children or laws relating to
20 crimes that involve sexual exploitation that would affect your
21 ability to render a fair and impartial verdict in this case?

22 24: The defendant may choose to testify or may exercise
23 his constitutional right not to testify. If he elects not to
24 testify, that cannot be held against him or even considered by
25 you in your deliberations.

1 Would the defendant's decision to testify or not to
2 testify affect your ability to be fair and impartial in serving
3 as a juror in this case?

4 25: Do you believe that just because the defendant has
5 been indicted he or she must be guilty of something.

6 26: A defendant is presumed innocent unless and until a
7 jury unanimously finds him guilty beyond a reasonable doubt.
8 Are you unable to accept that principle?

9 Listen carefully to the question.

10 A defendant is presumed innocent unless and until a jury
11 unanimously finds him guilty beyond a reasonable doubt. Are
12 you unable to accept that principle? If you're unable, then
13 you check "yes." If you are able to accept that principle of
14 our law then you check "no."

15 27: At the end of the trial, I will instruct the jury on
16 the law that they must follow as they decide this case. Jurors
17 must follow the court's instructions on the law, even if they
18 personally do not agree with the law as the court describes it.

19 If a juror has an opinion about what the law should be but
20 that opinion is different from the judge's instructions on what
21 the law is, the juror is required to follow the judge's
22 instructions.

23 If selected to serve as a juror, would you be unable to
24 follow my instruction on the law? If you're unable to follow
25 the judge's instructions you should mark "yes." But if you're

1 able to follow the judge's instructions on the law then you
2 mark "no."

3 Now, forgive me while I speak up on the next question,
4 you'll understand why. Do you have any hearing or sight
5 impairment? Do you have any hearing or sight impairment?

6 29: Do you have any difficulty reading, writing or
7 understanding the English language such that it would impair
8 your ability to understand what you hear in court or such that
9 it would impair your ability to read any documents submitted as
10 evidence?

11 And here we take one unusual step. Anyone not speak
12 English? Please stand if you do not speak English. No
13 positive responses.

14 30: Ladies and gentlemen, I anticipate that this trial
15 will last approximately two weeks. The court will not sit on
16 Labor Day. Obviously it won't sit on the weekends. We do,
17 otherwise, sit Monday through Friday. Do you have any medical,
18 physical or other condition or reason that would make it
19 difficult for you to give your full attention, and fair,
20 impartial and complete considering if you were selected to
21 serve as a juror in this case?

22 Two more questions, ladies and gentlemen. The next one's
23 a long one. If you are selected as a juror in this case you
24 will be required to decide this case solely based on the sworn
25 testimony you hear from witnesses in this courtroom and in the

1 exhibits that are presented to you as evidence. You will be
2 forbidden from looking for or considering information that is
3 potentially available from other sources. During the trial you
4 may not communicate with others about the trial or discuss it
5 with family, friends or anyone else. This includes online
6 discussions or postings on blogs or on internet sites such as
7 Facebook, Twitter, YouTube, Snapchat, Instagram, TikTok,
8 LinkedIn or similar means of communication.

9 You may not do any personal research of your own about the
10 case, the attorneys, the parties, or the issues in the case.
11 This prohibition includes internet research of any type,
12 whether on a computer, a cell phone, a smartphone, a smart
13 watch, a tablet, a laptop, a desktop, any electronic device.

14 For instance, during the trial you may not conduct a
15 Google search of any of the persons, facts or subjects that you
16 hear about in the case. As well, you may not consult any
17 printed material, including books, dictionaries, encyclopedias,
18 newspapers or magazines, whether they're in print or online,
19 frankly, in reference to the people, places and issues that
20 you'll hear about in this case.

21 Now, here's the question: Are you unable to abide by
22 these restrictions if you are selected as a juror in this case?
23 If you are unable to comply with those rules then you mark
24 "yes." If you are able to follow that instruction and comply
25 with that rule then you mark "no."

1 All right. Ladies and gentlemen, this last question is
2 the catchall question. It shows the seriousness with which we
3 take this process.

4 32: Is there anything else, something I have already
5 asked you about, or something that I've not asked you about,
6 that upon reflection you believe would interfere with your
7 ability to serve as a fair and impartial juror in this case?
8 If there is something then mark "yes" and tell me about it when
9 we meet in person. But if there's not something then you mark
10 "no."

11 Last page, we're ready now to begin the next part of this
12 process, so in a very orderly way -- we'll give you
13 instructions in just have a second -- we will have you slowly
14 file out of the courtroom. You'll be leaving through this door
15 over here to my right.

16 When it is your time to line up and proceed towards that
17 door, your first destination will be this grocery cart that you
18 see the clerk pushing, and you'll separate your answer sheet
19 from your clipboard. Your clipboard will be dropped in the
20 grocery cart. And then you'll walk up to the door and you'll
21 hand the clerk your answer sheet.

22 It's very important to our process that you stay in order
23 and that we receive the answer sheets in order. So, today we
24 are using the numbers in reverse from highest number to lowest.
25 We switch as the days go by just to keep the process as random

1 as possible. But make sure that you stay in order as this
2 process begins.

3 The first five of you to leave the courtroom with
4 Ms. Cohen will stop at a room on your left, which is very close
5 here, because you'll be the first ones brought back in here.
6 Those after number five will follow Ms. Cohen into courtroom
7 1B, which is behind this wall with all of the paintings on it.
8 And that's where you will assemble until it's your turn to come
9 back into the courtroom and to review your answer sheet.

10 So let's begin with the jurors in the jury box standing.
11 You in the gallery may remain seated.

12 The court security officer will move that cordon out of
13 the way so it's no longer blocking those steps. First row can
14 stand. Yes, ma'am. You're doing exactly right. Follow your
15 way around here. Find the grocery cart. Drop your clipboard.
16 Out the side door.

17 Second row stand.

18 Third row stand.

19 Do you want to put that stack down or are you good?

20 **THE CLERK:** I'm good.

21 **THE COURT:** Fourth row. And the fifth row.

22 There are no potential jurors in the courtroom.

23 Did voir dire proceed as expected by the Government to
24 this point and consistent with the manner in which was agreed
25 before trial?

1 MS. MCGUINN: Yes, Your Honor.

2 THE COURT: Mr. Nieto, the Defendant?

3 MR. NIETO: Yes, Your Honor.

4 THE COURT: Thank you. We're ready for Juror No. 363.

5 The jurors will be brought individually into the box, seated.

6 Any reason why that microphone needs to be that far down in the

7 box? How about if we bring it back closer so they don't have

8 to go as far. And let's check and make sure the mic is on.

9 But I don't want the juror to be obscured by the podium

10 from your view. So is that a problem?

11 MR. NIETO: From there, Your Honor?

12 THE COURT: Yeah, do you see where I've got the
13 microphone now, are you going to be able to see the juror --

14 MR. NIETO: Yes, Your Honor.

15 THE COURT: -- or is the podium in the way?

16 MR. NIETO: No, we can see.

17 THE COURT: You good, Mr. Proctor?

18 MR. PROCTOR: Yes, sir.

19 THE COURT: Juror 363, please. I'm going to ask those

20 in the back of the gallery to now move down to the front rows

21 because there are going to be moments where I'm going to need

22 to excuse you from the courtroom. And I want that process to

23 be quick and efficient. And when you're excused, please

24 quickly file out one of the side door that I'm pointing to.

25 You can stand out there in the vestibule, and the court

1 security officer will advise you when you may return.

2 Good afternoon, sir. You are Juror No. 363.

3 **PROSPECTIVE JUROR:** Yes, sir.

4 **THE COURT:** I'm looking through your juror
5 questionnaire, and I see you have a "yes" answer to Question
6 No. 12. Your Uncle Jeff Hughes is affiliated with Salisbury
7 police department; is that right?

8 **PROSPECTIVE JUROR:** Yes.

9 **THE COURT:** What does he do there?

10 **PROSPECTIVE JUROR:** He's a detective.

11 **THE COURT:** Do you see him often?

12 **PROSPECTIVE JUROR:** Yeah, I'd say so. About once a
13 week.

14 **THE COURT:** Does he talk to you about his cases or
15 other subjects.

16 **PROSPECTIVE JUROR:** No, he doesn't ever mention
17 anything about cases or anything.

18 **THE COURT:** Got it. Anything about the fact that he's
19 a police officer that would affect your ability to be a fair
20 and impartial juror in this case?

21 **PROSPECTIVE JUROR:** No.

22 **THE COURT:** And that looks like the only "yes" answer
23 that you supplied; is that correct?

24 **PROSPECTIVE JUROR:** I believe so.

25 **THE COURT:** Well, more than believe, you know so.

1 **PROSPECTIVE JUROR:** Yeah.

2 **THE COURT:** I didn't see any others so is that right?

3 **PROSPECTIVE JUROR:** Yeah, that should be the only one.

4 **THE COURT:** It was the only one that I saw. Where do
5 you live?

6 **PROSPECTIVE JUROR:** Pittsville, Maryland. It's across
7 the bridge. Do you know where Salisbury is?

8 **THE COURT:** Yeah, what's the name of the town again?

9 **PROSPECTIVE JUROR:** Pittsville.

10 **THE COURT:** Pittsville?

11 **PROSPECTIVE JUROR:** Yep, it's halfway in between Ocean
12 City and Salisbury.

13 **THE COURT:** Okay. And do you work over there or go to
14 school or what do you do?

15 **PROSPECTIVE JUROR:** I work actually in Delaware. It's
16 based out of Frankfurt. I do HVAC. So I just work everywhere
17 in Delaware pretty much.

18 **THE COURT:** Are you a certified tech?

19 **PROSPECTIVE JUROR:** Not yet, in training.

20 **THE COURT:** You're in training. You're going to get
21 there eventually.

22 **PROSPECTIVE JUROR:** Yep, eventually, hopefully.

23 **THE COURT:** Married?

24 **PROSPECTIVE JUROR:** Nope.

25 **THE COURT:** Got any kids?

1 PROSPECTIVE JUROR: Nope.

2 THE COURT: Live by yourself?

3 PROSPECTIVE JUROR: I live with my parents still.

4 THE COURT: That's in Pittsville?

5 PROSPECTIVE JUROR: Yep.

6 THE COURT: What do your patients do?

7 PROSPECTIVE JUROR: My dad does the same thing, HVAC,
8 and my mom does healthcare work.

9 THE COURT: Private channel.

10 (Whereupon, the following conference was held at the
11 bench:)

12 THE COURT: Can the Government hear me? Ms. McGuinn,
13 can you hear me? Ms. Hagan, can you hear me? Help them out,
14 Becca. Check, check, check. Ms. McGuinn, can you hear me?

15 MS. MCGUINN: Yes.

16 THE COURT: You have to talk right into your
17 microphone. You have to get right up on your mic or I won't be
18 able to hear you.

19 MS. MCGUINN: Yes, Your Honor.

20 THE COURT: Does the Government have any questions in
21 light of mine?

22 MS. MCGUINN: No, Your Honor.

23 THE COURT: Does the Defendant?

24 MR. PROCTOR: No, Your Honor.

25 MS. MCGUINN: None from the Government.

1 (Whereupon, the bench conference was concluded.)

2 **THE COURT:** Thank you, Juror 363. You may now proceed
3 to courtroom 1B. The clerk will show you where to go.

4 Bring me 361. Thank you.

5 On 361, the only "yes" answer is to 28. Do you have any
6 hearing or sight impairment? Yes, sight/glasses.

7 Please take a seat by that microphone. You are Juror 361;
8 is that right?

9 **PROSPECTIVE JUROR:** Correct.

10 **THE COURT:** I reviewed your questionnaire. You have a
11 "yes" answer only to Question 28: Do you have any hearing or
12 sight impairment? Answer: Yes. Sight/glasses.

13 Is that correct?

14 **PROSPECTIVE JUROR:** Correct.

15 **THE COURT:** But is your vision completely corrected to
16 20/20 with your glasses?

17 **PROSPECTIVE JUROR:** Yes, sir.

18 **THE COURT:** And you work as a commercial driver so
19 your eyes are probably pretty good, right?

20 **PROSPECTIVE JUROR:** I hope so.

21 **THE COURT:** So do I.

22 (Laughter.)

23 **PROSPECTIVE JUROR:** Yeah.

24 **THE COURT:** So tell me, you live over in Hagerstown?

25 **PROSPECTIVE JUROR:** Yes, sir.

1 THE COURT: How long you been working as a driver?

2 PROSPECTIVE JUROR: Two years, November.

3 THE COURT: Long haul, short haul?

4 PROSPECTIVE JUROR: Short haul.

5 THE COURT: Around Washington County or state of
6 Maryland? Pennsylvania?

7 PROSPECTIVE JUROR: Three hours radius of Frederick,
8 Maryland.

9 THE COURT: What are you hauling?

10 PROSPECTIVE JUROR: Groceries.

11 THE COURT: Groceries. Okay. What did you do before
12 that job?

13 PROSPECTIVE JUROR: I was a mechanic for 12 years.

14 THE COURT: Diesel? Regular?

15 PROSPECTIVE JUROR: Diesel, over-the-road semis.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR: I bumped my head, and I started
18 driving them.

19 THE COURT: I take that as a joke, but I want to make
20 sure that the bumping the head is a joke, yes?

21 PROSPECTIVE JUROR: It is, yes.

22 THE COURT: Thank you very much. You're married?

23 PROSPECTIVE JUROR: Correct.

24 THE COURT: Your spouse is a funeral director, a
25 mortician?

1 **PROSPECTIVE JUROR:** Correct.

2 **THE COURT:** I take it your spouse is female?

3 **PROSPECTIVE JUROR:** Yes.

4 **THE COURT:** And how long has she been in that line of
5 work?

6 **PROSPECTIVE JUROR:** I'm going to say eight years.

7 **THE COURT:** Do you have any kids?

8 **PROSPECTIVE JUROR:** No.

9 **THE COURT:** Tell me about your educational background?

10 **PROSPECTIVE JUROR:** I graduated. I got my diploma and
11 then I went to trade school for two years. That's about it.

12 **THE COURT:** Okay. What do you do for fun?

13 **PROSPECTIVE JUROR:** I play video games. So I play
14 video games. I am working on my third restoration. I work on
15 old stuff, old cars, old trucks.

16 **THE COURT:** Okay. Thank you. Bear with me for a
17 second. Private channel.

18 (Whereupon, the following conference was held at the
19 bench:)

20 **THE COURT:** Government have any questions in light of
21 mine?

22 **MS. MCGUINN:** No, Your Honor.

23 **THE COURT:** Defendant?

24 **MR. NIETO:** No questions, Your Honor.

25 **THE COURT:** Cause?

1 **MR. NIETO:** No, Your Honor.

2 **MS. MCGUINN:** No, Your Honor.

3 **THE COURT:** Thank you.

4 (Whereupon, the bench conference was concluded.)

5 **THE COURT:** Juror 361, you may proceed to courtroom
6 1B. Follow the clerk.

7 We're ready for 352.

8 Good afternoon, ma'am. If you would sit by the
9 microphone. I'll be with you in just a second.

10 Those in the gallery may step out. Gallery clear.

11 Good afternoon, ma'am.

12 **PROSPECTIVE JUROR:** Hi.

13 **THE COURT:** Thank you for participating in our process
14 this afternoon. I have your juror questionnaire up here. I
15 wanted to turn your attention to Question 16E. That question
16 asked: Specifically in this case the allegations include those
17 of sexual abuse. Has any member of your immediate family or
18 closest associates ever been a victim, a witness, accused or
19 convicted of a crime of a sexual nature? You have a "yes"
20 answer to that question.

21 **PROSPECTIVE JUROR:** Correct.

22 **THE COURT:** What can you tell me about that? Can you
23 move a little closer to the mic or slide the mic down the rail
24 so it's right in front of your face.

25 **THE COURT:** Can you hear me now?

1 **THE COURT:** I can a lot better. Thank you.

2 **PROSPECTIVE JUROR:** I hate the sound of my own voice.

3 **THE COURT:** It makes a loud noise, doesn't it?

4 **PROSPECTIVE JUROR:** A little bit. I, myself, am a
5 victim of it. My fiancé was a victim of it. A very close
6 cousin of mine was a victim of it and she has passed away
7 because of it.

8 **THE COURT:** And you said and passed away because of
9 it?

10 **PROSPECTIVE JUROR:** She was killed after it happened,
11 yes.

12 **THE COURT:** And your own experience with this, was
13 this before you had reached the age of 18 or after you were 18?

14 **PROSPECTIVE JUROR:** It was before.

15 **THE COURT:** Before.

16 **PROSPECTIVE JUROR:** I was a child, yes.

17 **THE COURT:** Without any great detail, can you tell me
18 what was very generally the nature of the abuse? Were actions
19 taken with respect to your body that you felt were
20 inappropriate? If so, what were they?

21 **PROSPECTIVE JUROR:** It was an older kid and it was
22 essentially posed as a game when it very much wasn't. And I
23 was also injured as well. I was attacked in the eye. I did
24 not have to get stitches but they did say I was very close to
25 losing my eye when it happened.

1 **THE COURT:** And how old were you?

2 **PROSPECTIVE JUROR:** I had to have been around nine or
3 10.

4 **THE COURT:** And was there any investigation? Was
5 there any action taken? Was it kept kind of sort of quiet and
6 under wraps? How was it handled?

7 **PROSPECTIVE JUROR:** No one was prosecuted in it. We
8 all were technically kids, even though he was an older kid, and
9 we were all technically kids. The parents kind of handled it.
10 My mother wanted to but she was talked out of it. We moved you
11 shortly after though.

12 **THE COURT:** I'm sorry?

13 **PROSPECTIVE JUROR:** Not too long after we moved away.

14 **THE COURT:** You moved away not long after.

15 You referenced someone else, someone close to you, who was
16 subject to some kind of abuse or inappropriate conduct. And
17 then I think you indicated that they lost their life?

18 **PROSPECTIVE JUROR:** Yes, that was my cousin.

19 **THE COURT:** That was?

20 **PROSPECTIVE JUROR:** That was my cousin, close cousin.

21 **THE COURT:** How long ago did that happen?

22 **PROSPECTIVE JUROR:** I was young, younger at the time.
23 I don't exactly remember how old I was, but I was younger. But
24 it was very hard on my family, particularly my mother. And my
25 mother was very adamant of making sure I was aware of things

1 that happened and to try to avoid those things.

2 **THE COURT:** Yes.

3 **PROSPECTIVE JUROR:** And I wasn't as lucky with that
4 but it was very much a talked about thing in my family.

5 **THE COURT:** You heard me make reference to the nature
6 of the charges in this case when you were sitting here
7 listening, right?

8 **PROSPECTIVE JUROR:** Yes.

9 **THE COURT:** Do you think that if you were called upon
10 to serve as a juror in this case that you could be a fair and
11 impartial juror in light of the experiences that you have just
12 told us about?

13 **PROSPECTIVE JUROR:** It would be hard because I also
14 know other people as well that I didn't want to mention --

15 **THE COURT:** I'm having a little trouble hearing you.
16 Sit closer to the mic and a little slower.

17 **PROSPECTIVE JUROR:** I think it would be difficult for
18 me considering my experiences. And there are other people that
19 I did not want to mention that have gone through it. It's a
20 fairly touchy subject for myself, yes.

21 **THE COURT:** Bear with me for a second. Private
22 channel.

23 (Whereupon, the following conference was held at the
24 bench:)

25 **THE COURT:** Counsel want to be heard? Mr. Nieto.

1 **MR. NIETO:** Your Honor, we would make a motion to
2 excuse this juror for cause.

3 **THE COURT:** Granted.

4 (Whereupon, the bench conference was concluded.)

5 **THE COURT:** Thank you, ma'am. You are excused from
6 service in this case and you may depart by going through --
7 well, let's see, how are we going to do this. It's actually
8 through this door out to that hallway and then a left turn to
9 exit the building.

10 Does she have to call in for Friday?

11 **THE CLERK:** Yes, she needs to call.

12 **THE COURT:** Do you know how to call on Friday to see
13 if you're needed for jury service the following week?

14 **PROSPECTIVE JUROR:** Call on Friday.

15 **THE COURT:** Call on Friday the regular way. You good?
16 Okay. Thank you, ma'am.

17 352 excused for cause on the Defendant's motion.

18 Good afternoon, Juror 347.

19 **PROSPECTIVE JUROR:** Good afternoon.

20 **THE COURT:** Thank you for participating in our
21 process. I need you to move right up next to that microphone
22 otherwise we'll not be able to hear you. I've reviewd your
23 juror questionnaire and it looks like you've given me two "yes"
24 answers. The first one was in response to Question 28: Do you
25 have any hearing or sight impairment? Yes. Wear glasses. But

1 once you wear your glasses, you're able to see 20/20?

2 **PROSPECTIVE JUROR:** That's correct.

3 **THE COURT:** You can drive a car and you can read, all
4 that kind of stuff?

5 **PROSPECTIVE JUROR:** That's correct.

6 **THE COURT:** Not really an issue once you've got your
7 glasses?

8 **PROSPECTIVE JUROR:** I wasn't sure so I just put it
9 down.

10 **THE COURT:** No, no, it was the right answer.
11 Absolutely the right answer. But I just want to clarify,
12 despite it being the right answer it's not really a problem for
13 you?

14 **PROSPECTIVE JUROR:** Yes, that's correct.

15 **THE COURT:** Okay. No other "yes" answers until we get
16 to the very last question, number 32: Is there anything else,
17 something I've asked you about, that I haven't asked you about,
18 that might interfere with your ability to serve as a fair and
19 impartial juror in this case? And you answered "yes," possibly
20 view of blood and other pictures.

21 **PROSPECTIVE JUROR:** Right. So maybe that might have
22 been related to one of the other questions, but I had a -- I
23 guess a previous jury selection process that was a murder
24 trial. And I had a hard time getting -- being able to view
25 some of the pictures and getting involved with that process.

1 So that had me concerned so that's why I wrote it down.

2 **THE COURT:** Okay. Thank you. Bear with me for just a
3 second. Okay. Private channel.

4 (Whereupon, the following conference was held at the
5 bench:)

6 **THE COURT:** Counsel, I propose that I advise the
7 prospective juror that I do not expect there to be any pictures
8 presented that are bloody or gruesome in that respect, but that
9 I do expect that there may be pictures that depict male
10 genitalia.

11 First of all, is that accurate?

12 **MS. MCGUINN:** Yes. There are video and image files.

13 **THE COURT:** Okay. And they depict male genitalia?

14 **MS. MCGUINN:** Yes, male genitalia.

15 **THE COURT:** What about young men, full-body nudity?

16 **MS. MCGUINN:** So it's male genitalia, masturbation,
17 and you can see a full body in a couple of things that are
18 related to those.

19 **THE COURT:** And Government's position on this juror so
20 far?

21 **MS. MCGUINN:** So far I think we're okay. I think if
22 Your Honor asks a clarifying question --

23 **THE COURT:** I will ask some more but if there's a
24 cause objection already I want to hear it.

25 Mr. Nieto, first of all, what's your position on the Court

1 explaining the likely image evidence in the way that I just
2 sorted without with the Government?

3 **MR. NIETO:** That proposal makes sense, Your Honor.

4 **THE COURT:** Let's see what response we get to that.
5 Fair enough, Mr. Nieto?

6 **MR. NIETO:** Absolutely.

7 **THE COURT:** During the trial in this case, I do not
8 expect there to be any images that I would describe as bloody
9 or gruesome of the sort that you might have been referring to
10 and having been exposed to previously.

11 There will be images that perhaps depict male genitalia.
12 They may depict -- there may be videos that may depict male
13 masturbation. They may depict male persons that are unclothed
14 entirely but that's the extent of it. Nothing that I would
15 categorize as bloody or gruesome which seems to be what you
16 made specific reference to.

17 **PROSPECTIVE JUROR:** Okay.

18 **THE COURT:** Okay.

19 **PROSPECTIVE JUROR:** All right.

20 **THE COURT:** And if there were images of the sort that
21 I just described, do you think that you could nonetheless serve
22 and be a fair and impartial juror?

23 **PROSPECTIVE JUROR:** I'm uncertain because of -- I
24 guess if I get uncomfortable I'm worried that I might miss
25 something, like, if the evidence I should be looking at and I

1 don't -- I'm not able to answer that, I guess, with full
2 confidence to say I can, you know, take a look and be impartial
3 and answer or make judgment there so . . .

4 **THE COURT:** So I imagine that the display of the sort
5 of exhibits that I'm talking about here might cause some
6 distress to, you know, a person who is called for jury service.
7 I don't think anything that you're describing in terms of
8 reaction would necessary be sort of out of the sort of
9 mainstream. It's not the sort of image that we're necessarily
10 exposed to on an everyday basis.

11 I guess the real question here is whether you think that
12 your reaction and your potential for distraction from the other
13 evidence would be unusual or greater than what you would
14 anticipate for other persons just because of your unique self
15 and your life experiences and so forth? Do you think it would
16 be -- in other words, the distraction you're describing and so
17 forth, would you expect it to be unusually so?

18 **PROSPECTIVE JUROR:** I guess I'm not sure what you mean
19 unusual? But, I guess I might have the tendency to want to
20 avoid looking at it. I guess that's my concern. As part of
21 the jury, you know, it's part of it to take a look at the
22 evidence and, you know, go off of that. And I guess looking
23 away or not taking full account, I guess that's where my
24 concern is.

25 **THE COURT:** Well, if I advised you that it was your

1 responsibility as a juror to hang in there and to, you know,
2 look at the exhibits to the extent necessary so that you could
3 assess what they were and what they depicted, do you think you
4 would be able to do that without compromising your ability to
5 be a fair and impartial juror? Or do you think that an
6 instruction for you to look at those images and those videos
7 like that would likely impact your ability to be fair and
8 impartial?

9 **PROSPECTIVE JUROR:** I guess possibly the latter, I
10 guess.

11 **THE COURT:** Okay. Thank you. Private channel.

12 (Whereupon, the bench conference was concluded.)

13 **THE COURT:** Obviously we're going to have some issues
14 in the selection of this jury, and I believe I have taken
15 appropriate steps to try to help the juror understand sort of
16 context, their role, their responsibility and so forth. But I
17 don't believe I'm achieving success to the extent that I'm
18 comfortable in terms of finding in him a juror who would be
19 able to give whatever evidence is presented during the trial
20 its appropriate sort of attention and focus without being
21 unduly distracted and impacted in his capacity to be fair and
22 impartial.

23 Government have a position?

24 **MS. MCGUINN:** No objection, Your Honor.

25 **MR. NIETO:** No objection. Strike for cause.

1 **THE COURT:** Objection to strike for cause?

2 **MR. NIETO:** Yes, Your Honor.

3 (Whereupon, the bench conference was concluded.)

4 **THE COURT:** Juror 347, you are excused. You will not
5 serve on this jury. You may depart through this door right
6 here. The clerk will show you which direction to go to get out
7 of the building. Thank you for being here today.

8 Excused on defense motion for cause.

9 Good afternoon, sir, I'll be right with you.

10 Good afternoon Juror 34. I have reviewed your answer
11 sheet and I see just a few "yes" answers in here that I would
12 like to cover with you. It's important that you move close to
13 that microphone, otherwise I'm not going to be able to hear you
14 while you're speaking.

15 Would the court security officer advise those who were
16 excluded that they may reenter. I am stopping at Question No.
17 13. And on Question 13 you answered "Yes, in about 1988 I was
18 a security guard part-time at a music hall in Baltimore.

19 **PROSPECTIVE JUROR:** Yes.

20 **THE COURT:** Did I get your answer correct?

21 **PROSPECTIVE JUROR:** That is correct.

22 **THE COURT:** Anything about that work experience that
23 would make it difficult for you to serve as a fair and
24 impartial juror in the trial of a criminal case?

25 **PROSPECTIVE JUROR:** Not that I'm aware of.

1 **THE COURT:** Now let's go to 16A. Have you or any
2 member of your family or closest associates ever been the
3 victim of a crime? Answer, "Yes, ex-wife hold up at ice cream
4 shop while we were married."

5 How long ago did that happen?

6 **PROSPECTIVE JUROR:** Yes, that was in about 1990-ish.

7 **THE COURT:** Was she injured?

8 **PROSPECTIVE JUROR:** No.

9 **THE COURT:** Then you also answered "yes," any close,
10 immediate family been a witness to a crime and you said it's
11 the same above. So that's the same answer,

12 **PROSPECTIVE JUROR:** Exactly. There were other people
13 there that were also robbed and the cash register. So she
14 witnessed all that. So that's why the witness is a "yes" as
15 well.

16 **THE COURT:** Got it. Was anyone ever apprehended or
17 prosecuted in relation to the robbery?

18 **PROSPECTIVE JUROR:** You know, I was thinking about
19 that a moment ago and I cannot remember.

20 **THE COURT:** You can't remember, okay. Do you remember
21 any stories of your ex-wife going to court or participating in
22 the court process at all?

23 **PROSPECTIVE JUROR:** No, I don't remember. Okay.

24 **THE COURT:** Anything about that whole experience that
25 would affect your ability to be a fair and impartial juror if

1 you were picked in this case?

2 **PROSPECTIVE JUROR:** Not that I'm aware of.

3 **THE COURT:** Question 28: Do you have any hearing or
4 sight impairments? You have "No," but then you added a
5 statement "if I wear my glasses."

6 **PROSPECTIVE JUROR:** If I wear my glasses I can see
7 fine this way. If not, not as well.

8 **THE COURT:** Important for you to wear your reading
9 glasses. No other "yes" answers.

10 You live in Columbia?

11 **PROSPECTIVE JUROR:** Yes.

12 **THE COURT:** You work as a physicist?

13 **PROSPECTIVE JUROR:** Yep.

14 **THE COURT:** At APL?

15 **PROSPECTIVE JUROR:** Yes.

16 **THE COURT:** How long have you been there?

17 **PROSPECTIVE JUROR:** Over 25 years now.

18 **THE COURT:** What's your field of interest or work?

19 **PROSPECTIVE JUROR:** I do research on radars.

20 **THE COURT:** On radars?

21 **PROSPECTIVE JUROR:** Yep.

22 **THE COURT:** Always have?

23 **PROSPECTIVE JUROR:** No, I've been tracking other
24 things and before that I was in particle physics.

25 **THE COURT:** You were in the?

1 **PROSPECTIVE JUROR:** In partical physics.

2 **THE JUDGE:** Oh, in particle physics. I thought you
3 said I was in a park business. You were in particle physics.

4 **PROSPECTIVE JUROR:** Partical physics. And we were
5 tracking particles and then I got into tracking other things.

6 **THE COURT:** Got it. Tell me about your educational
7 background.

8 **PROSPECTIVE JUROR:** I have a Ph.D., a master's and a
9 bachelor's.

10 **THE COURT:** All in physics or applied math?

11 **PROSPECTIVE JUROR:** The bachelor's is physics and
12 engineering science, the master of arts in physics, and Ph.D.
13 in physics.

14 **THE COURT:** You were married before but you're not
15 married now?

16 **PROSPECTIVE JUROR:** That is correct.

17 **THE COURT:** How long since your marriage ended?

18 **PROSPECTIVE JUROR:** Decree of absolute divorce was
19 over a year now.

20 **THE COURT:** Do you have children?

21 **PROSPECTIVE JUROR:** Yes.

22 **THE COURT:** How many?

23 **PROSPECTIVE JUROR:** Four.

24 **THE COURT:** How old are they?

25 **PROSPECTIVE JUROR:** Thirty, 28, 25, and 22.

1 **THE COURT:** And are they all particle physicists?

2 **PROSPECTIVE JUROR:** No, none of them are.

3 **THE COURT:** None of them are. What do they do?

4 **PROSPECTIVE JUROR:** One works for a company that does
5 video surveillance for restaurants to make sure that people
6 aren't skimming off the top. One does good news, sort of
7 scientific news and stuff and is also an artist and selling her
8 art.

9 **THE COURT:** So a journalist?

10 **PROSPECTIVE JUROR:** Sort of. Technology news.

11 **THE COURT:** Okay.

12 **PROSPECTIVE JUROR:** And, let's see, one is currently
13 unemployed and getting ready to move to a new state with her
14 husband. And the youngest is working at a hardware store right
15 now.

16 **THE COURT:** Okay. Thank you. Private channel.

17 (Whereupon, the following conference was held at the
18 bench:)

19 **THE COURT:** Government have any issues or questions in
20 light of mine?

21 **MS. MCGUINN:** No, Your Honor.

22 **THE COURT:** Defendant?

23 **MR. NIETO:** No, Your Honor.

24 **THE COURT:** Thank you.

25 (Whereupon, the bench conference was concluded.)

1 **THE COURT:** Thank you, Juror 341. You may return to
2 courtroom 1B. The clerk will show you the way.

3 **PROSPECTIVE JUROR:** Thank you.

4 **THE COURT:** Be with you in just a second.

5 Good afternoon, Juror 339. If you would move as close as
6 you can to that microphone because it doesn't pick up very
7 well. You can move the mic.

8 **PROSPECTIVE JUROR:** All right.

9 **THE COURT:** It'll slide right down the rail. I have
10 reviewed your juror questionnaire, and I have looked for "yes"
11 answers to our questions. And I see that you have a "yes"
12 answer to Question 16A: Have you ever been a victim of a
13 crime. Answer: Yes, car was broken into.

14 When was that?

15 **PROSPECTIVE JUROR:** 2000s.

16 **THE COURT:** In the 2000s?

17 **PROSPECTIVE JUROR:** 2005, somewhere around there.

18 **THE COURT:** Okay. Where did that happen?

19 **PROSPECTIVE JUROR:** Montgomery County.

20 **THE COURT:** Anything about that that would make it
21 difficult for you to be a fair and impartial juror if you were
22 picked in this case?

23 **PROSPECTIVE JUROR:** No.

24 **THE COURT:** And then any member of the family or
25 yourself ever been accused of criminal conduct? The answer:

1 Yes. Tell us about that?

2 **PROSPECTIVE JUROR:** I have.

3 **THE COURT:** Okay. One second, please.

4 Gallery has been cleared.

5 What were you accused of?

6 **PROSPECTIVE JUROR:** Car theft.

7 **THE COURT:** Did you get convicted?

8 **PROSPECTIVE JUROR:** No.

9 **THE COURT:** Did you go to trial?

10 **PROSPECTIVE JUROR:** Nolle pros.

11 **THE COURT:** You got a nolle pros out of it. Where was
12 that?

13 **PROSPECTIVE JUROR:** Montgomery County.

14 **THE COURT:** In Montgomery County. How long ago was
15 it?

16 **PROSPECTIVE JUROR:** Ninety-six, ninety-seven.

17 **THE COURT:** Were you represented by a lawyer?

18 **PROSPECTIVE JUROR:** No.

19 **THE COURT:** Represent yourself?

20 **PROSPECTIVE JUROR:** They found the person that did it
21 before. I just got picked up for it. It wasn't me. Nuts.

22 **THE COURT:** Well, we have a presumption of innocence
23 in our system and you're presumed innocent and that presumption
24 stayed with you through process, true?

25 **PROSPECTIVE JUROR:** Yes.

1 **THE COURT:** Okay. Anything about that experience that
2 would make it difficult for you to serve as a fair and
3 impartial juror if you were picked in this case?

4 **PROSPECTIVE JUROR:** No.

5 **THE COURT:** Okay. I don't see any other "yes" answers
6 on your form; am I right about that?

7 **PROSPECTIVE JUROR:** You're correct.

8 **THE COURT:** So you are working in construction?

9 **PROSPECTIVE JUROR:** (No audible response.)

10 **THE COURT:** Out in Frederick?

11 **PROSPECTIVE JUROR:** Rockville.

12 **THE COURT:** What are you building?

13 **PROSPECTIVE JUROR:** Swimming pools. Renovations.

14 **THE COURT:** What do you do? You pour concrete? Build
15 forms? What do you do?

16 **PROSPECTIVE JUROR:** Tile, coping, plaster. All of
17 that.

18 **THE COURT:** You do all of the tile stuff?

19 **PROSPECTIVE JUROR:** Yeah, the coping, the finish, the
20 plaster.

21 **THE COURT:** You're a craftsman.

22 **PROSPECTIVE JUROR:** We do it all.

23 **THE COURT:** How's business?

24 **PROSPECTIVE JUROR:** It's not as good as last year,
25 I'll say that.

1 THE COURT: Okay. Do you own the business?

2 PROSPECTIVE JUROR: No.

3 THE COURT: You're an employee?

4 PROSPECTIVE JUROR: Yes, sir.

5 THE COURT: How long you been working there?

6 PROSPECTIVE JUROR: Twenty-seven years.

7 THE COURT: Tell me about your education.

8 PROSPECTIVE JUROR: One year of college.

9 THE COURT: Okay. Where were you raised?

10 PROSPECTIVE JUROR: Rockville, Maryland.

11 THE COURT: Married?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Not married?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Got any kids?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: How old?

18 PROSPECTIVE JUROR: 27, 23, 21.

19 THE COURT: What do your kids do.

20 PROSPECTIVE JUROR: Work. Go to school.

21 THE COURT: School? Construction? Trades?

22 PROSPECTIVE JUROR: Trades. One's still in school

23 kind of, you know, waiting tables and stuff. The other one is

24 electronics and one is in granite countertops.

25 THE COURT: Got it. Okay. Bear with me a second

1 while I talk to the lawyers in private.

2 (Whereupon, the following conference was held at the
3 bench:)

4 **THE COURT:** Government have any issues or questions in
5 light of mine?

6 **MS. MCGUINN:** No, Your Honor.

7 **THE COURT:** Defendant?

8 **MR. NIETO:** No, Your Honor.

9 **THE COURT:** Thank you.

10 (Whereupon, the bench conference was concluded.)

11 **THE COURT:** Thank you, Juror 339. We're finished and
12 you may return to courtroom 1B.

13 We'll be right with you, sir. Make sure you're really
14 close to the microphone so we'll be able to hear you. I've
15 review your juror questionnaire. I see you supplied no "yes"
16 answers; is that correct?

17 **PROSPECTIVE JUROR:** Correct.

18 **THE COURT:** So you live in Crofton?

19 **PROSPECTIVE JUROR:** Yes.

20 **THE COURT:** And you're in the food and beverage
21 industry?

22 **PROSPECTIVE JUROR:** Correct.

23 **THE COURT:** Tell me about your work? What do you do?
24 How are you connected, that sort of thing?

25 **PROSPECTIVE JUROR:** Mostly I've been a waiter for the

1 majority of my career, bartending, managing. I think my wife
2 and I were actually an owner of a -- small piece of an
3 ownership at one point.

4 **THE COURT:** Sounds like you're having trouble
5 remembering. Is it a bad memory?

6 **PROSPECTIVE JUROR:** No, it's just getting old.

7 (Laughter.)

8 **THE COURT:** Okay. That's a bad memory, too. So in
9 the food and beverage business pretty much your whole career?

10 **PROSPECTIVE JUROR:** Yes. I mean, I've done other --
11 other hobbies and side hustles type of a thing. But that's the
12 focus every since college.

13 **THE COURT:** Tell me about some of the side gigs?

14 **PROSPECTIVE JUROR:** Home renovation. I worked for
15 architects, landscape architects earlier in my career for
16 getting that type of a knowledge that I don't use as a
17 vocation.

18 **THE COURT:** Got it. Your wife's a bookkeeper?

19 **PROSPECTIVE JUROR:** In the restaurant business as well
20 so . . .

21 **THE COURT:** And she's been doing that work for a long
22 time?

23 **PROSPECTIVE JUROR:** The majority of her career as
24 well, yes.

25 **THE COURT:** Got any kids?

1 **PROSPECTIVE JUROR:** Three.

2 **THE COURT:** How old are they?

3 **PROSPECTIVE JUROR:** Thirty-seven, 35, and 27.

4 **THE COURT:** What do they do?

5 **PROSPECTIVE JUROR:** The oldest does business
6 development down in Florida. I mean, he just tries different
7 things. Not really sure what his job title is at times.

8 **THE COURT:** Yep.

9 **PROSPECTIVE JUROR:** Middle one, we are fairly
10 estranged from. Does his own thing. Has his own family. Goes
11 his own specific way.

12 **THE COURT:** Any specific reason why that happened?

13 **PROSPECTIVE JUROR:** I don't believe we would know it.

14 **THE COURT:** And youngest.

15 **PROSPECTIVE JUROR:** Youngest is in her fourth year of
16 medical school.

17 **THE COURT:** Where is she attending?

18 **PROSPECTIVE JUROR:** New York University of Technology
19 up in Long Island.

20 **THE COURT:** Got it. Okay. Bear with me for a second.

21 (Whereupon, the following conference was held at the
22 bench:)

23 **THE COURT:** Government have any issues or questions in
24 light of mine?

25 **MS. MCGUINN:** No, Your Honor.

1 **MR. NIETO:** No, Your Honor.

2 **THE COURT:** Thank you.

3 (Whereupon, the bench conference was concluded.)

4 **THE COURT:** Thank you, Juror 333. You may return to
5 courtroom 1B.

6 329 will be next.

7 Yes to 14, 16A, 16E, as in Edward. And the global 16 yes.
8 17 is a yes. That seems to be it.

9 Let's go see what's up.

10 **THE CLERK:** She's in the restroom.

11 **THE COURT:** Thank you. I may not take these "yes"
12 answers in order.

13 Good afternoon, ma'am. You are Jury No. 329.

14 **PROSPECTIVE JUROR:** Hi, yes.

15 **THE COURT:** Could you stay as close as possible to
16 that microphone. You have some "yes" answers for me. And I
17 want to first turn to Question 17. Someone has legal training,
18 perhaps you, perhaps someone else in your family? Law school,
19 law/criminal justice, legal training.

20 **PROSPECTIVE JUROR:** I have two degrees.

21 **THE COURT:** What are those names, ma'am?

22 **PROSPECTIVE JUROR:** Criminal justice.

23 **THE COURT:** Two degrees. Both of them are in criminal
24 justice?

25 **PROSPECTIVE JUROR:** Applied science and then

1 bachelor's, associate's and a bachelor's.

2 **THE COURT:** Do you work in criminal justice?

3 **PROSPECTIVE JUROR:** Actually, no. I'm in finance.

4 (Laughter.)

5 **THE COURT:** Probably a little more lucrative pathway.

6 Thank you.

7 You answered Question 16E: Specifically in this case the
8 allegations include those of sexual abuse. Has any member of
9 your immediate family or closest associates ever been a victim,
10 a witness, accused or convicted of a crime of a sexual nature
11 to which you answered "yes." Can you tell us about that?

12 **PROSPECTIVE JUROR:** My sister. Over 40 years ago,
13 yeah, at the time.

14 **THE COURT:** She was a victim?

15 **PROSPECTIVE JUROR:** She was.

16 **THE COURT:** Okay. Was it within a family or stranger
17 or neighbor?

18 **PROSPECTIVE JUROR:** It was a family member. And, you
19 know, they -- you know, she's forgiven him. They've talked
20 about it. Today they have a good relationship, so . . .

21 **THE COURT:** Do you think there's anything about that
22 experience that your sister had that would affect your ability
23 to be a fair and impartial juror in this case, having been told
24 a little bit about what this case is about?

25 **PROSPECTIVE JUROR:** No. I think should I be selected,

1 and I would base it on the evidence. I would take a look at
2 it.

3 **THE COURT:** Okay. Very good. You can bring in those
4 who are excluded and are standing in the vestibule.

5 You also answered "yes" to Question 16A about an uncle who
6 was a police officer who was killed in the line of duty.

7 **PROSPECTIVE JUROR:** Yes.

8 **THE COURT:** Can you tell us about that?

9 **PROSPECTIVE JUROR:** In 1979, my uncle was a highway
10 patrolman and he stopped a motorcyclist for speeding, and he
11 shot him three times.

12 **THE COURT:** Where did this happen?

13 **PROSPECTIVE JUROR:** In South Carolina.

14 **THE COURT:** Okay. What sort of police officer was
15 your uncle?

16 **PROSPECTIVE JUROR:** Highway patrolman.

17 **THE COURT:** He was a highway patrolman.

18 **PROSPECTIVE JUROR:** South Carolina highway patrolman.

19 **THE COURT:** How old were you when this happened?

20 **PROSPECTIVE JUROR:** I was nine.

21 **THE COURT:** Do you remember it?

22 **PROSPECTIVE JUROR:** I do vaguely, some.

23 **THE COURT:** You have some recollection?

24 **PROSPECTIVE JUROR:** I do.

25 **THE COURT:** Do you think there's anything about that

1 experience that would affect your ability to be a fair and
2 impartial juror if you were picked to serve in this case?

3 **PROSPECTIVE JUROR:** No, not at all.

4 **THE COURT:** I don't see any other "yes" answers to our
5 questions. Am I right about that?

6 **PROSPECTIVE JUROR:** You are correct.

7 **THE COURT:** You live in Denton?

8 **PROSPECTIVE JUROR:** I do.

9 **THE COURT:** You work for OPM?

10 **PROSPECTIVE JUROR:** I do.

11 **THE COURT:** You're a budget analyst for them?

12 **PROSPECTIVE JUROR:** Yes, I am.

13 **THE COURT:** Do you work mainly at home? Do you go in?
14 Is it a combination?

15 **PROSPECTIVE JUROR:** A combination.

16 **THE COURT:** How long have you been with OPM?

17 **PROSPECTIVE JUROR:** I've been with OPM about four
18 months. But it was a promotion from the Department of Health
19 and Human Services. I was a GS12 and then I got promoted to
20 the 13 with OPM.

21 **THE COURT:** What did you do as a 12 at HHS?

22 **PROSPECTIVE JUROR:** Budget analyst.

23 **THE COURT:** How long did you do that?

24 **PROSPECTIVE JUROR:** I've total been in the Federal
25 Government nine years.

1 THE COURT: Nine years?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: Similar work?

4 PROSPECTIVE JUROR: Similar work, yes. I did 20 years
5 in the banking industry.

6 THE COURT: What did you do as a banker?

7 PROSPECTIVE JUROR: Pretty much teller coordinator,
8 teller manager. Started as a part-time teller. Worked my way
9 to teller coordinator and teller manager.

10 THE COURT: Were you every in a bank when it was
11 robbed?

12 PROSPECTIVE JUROR: Oh, actually, yes. I forgot about
13 that. Yes, actually in 2011, yes.

14 THE COURT: Was anyone hurt?

15 PROSPECTIVE JUROR: No, no. I was actually the teller
16 coordinator at that time and we just complied. We were trained
17 to comply and that's what we did. No one was hurt and it was a
18 quick in and out.

19 THE COURT: Is there anything about that experience
20 that would affect your ability to be a fair and impartial juror
21 if you were picked in this case?

22 PROSPECTIVE JUROR: No, not at all.

23 THE COURT: Okay. Are you married?

24 PROSPECTIVE JUROR: I am.

25 THE COURT: And what does your spouse do?

1 **PROSPECTIVE JUROR:** He works for the Department of
2 Agriculture.

3 **THE COURT:** What does he do? Budgeting?

4 **PROSPECTIVE JUROR:** No, he is -- he mostly deal with
5 cases -- I apologize. I don't recall his title so . . .

6 **THE COURT:** Do you know his grade?

7 **PROSPECTIVE JUROR:** He's a GS12.

8 **THE COURT:** GS12. How long you been married?

9 **PROSPECTIVE JUROR:** I don't want to get it wrong --
10 since 1994.

11 **THE COURT:** Since 1994. That's a good way to answer.
12 (Laughter.)

13 **PROSPECTIVE JUROR:** Yes.

14 **THE COURT:** Do you have any children?

15 **PROSPECTIVE JUROR:** I have a daughter.

16 **THE COURT:** How old is she?

17 **PROSPECTIVE JUROR:** She'll be 24 next week.

18 **THE COURT:** Congratulations. What does she do?

19 **PROSPECTIVE JUROR:** She graduated from Penn State. So
20 she's currently working part-time but she wants to be a doctor
21 so she's studying to take the MCAT.

22 **THE COURT:** Oh, that's a big job. Okay.

23 Bear with me for a second while a talk to the lawyers.

24 **PROSPECTIVE JUROR:** Sure, sure.

25 (Whereupon, the following conference was held at the

1 bench:)

2 **THE COURT:** Government have any issues or questions in
3 light of mine?

4 **MS. MCGUINN:** No, Your Honor.

5 **MR. NIETO:** No, Your Honor.

6 **THE COURT:** Thank you.

7 (Whereupon, the bench conference was concluded.)

8 **THE COURT:** Thank you, Juror 329. You may return to
9 courtroom 1B.

10 Yes to 10. No response to nine.

11 Ma'am, I'll be right with you. You have some "yes"
12 answers for me on your questionnaire. I want to go over those
13 with you if that's all right.

14 **PROSPECTIVE JUROR:** Sure.

15 **THE COURT:** Move the microphone closer to you.

16 **PROSPECTIVE JUROR:** Sorry.

17 **THE COURT:** But the microphone can slide down a little
18 bit if that would make it better for you.

19 First of all, Question 9: Some of you may have previously
20 served on a grand jury, state or federal court, if you
21 previously served on a grand jury is there anything about that
22 prior experience that would make it difficult for you,
23 influence you in your deliberations?

24 You have no answer for that?

25 **PROSPECTIVE JUROR:** I've never been on a grand jury.

1 **THE COURT:** Okay. So it should have been a no?

2 **PROSPECTIVE JUROR:** Okay, yeah.

3 **THE COURT:** That's how we'll record that on the
4 record. That should have been a no.

5 Let's go over to Question 10: A few minutes ago you heard
6 me give a brief description in this case, is there anything in
7 that brief description that made you realize it would be
8 difficult for you to keep an open mind and serve as a fair and
9 impartial juror in the trial of this case?

10 You answered "yes," and then you scribbled "mom of two
11 boys."

12 **PROSPECTIVE JUROR:** Correct.

13 **THE COURT:** And then you also gave me a "yes" answer
14 kind of further down the road here. That was 16A: Ever been
15 the victim of a crime? "Yes, husband held at gunpoint. Me,
16 peeping Tom." Two different answers there.

17 **PROSPECTIVE JUROR:** Correct. Yes, my husband was held
18 at gunpoint. When I was in my 20s, we had a gentleman that was
19 breaking into apartments and stealing things out of women's
20 apartments and peeking through the windows and the police were
21 called. It was like a big thing. So that was about it.

22 **THE COURT:** Witnesses. "Husband, yes."

23 **PROSPECTIVE JUROR:** Right. He was a witness when they
24 found the man that held him at gunpoint.

25 **THE COURT:** Got it.

1 Would crimes involving children make it difficult for you
2 to render a fair and impartial verdict? Yes -- this is number
3 16H. "Yes, crimes against children are trouble."

4 Did I read that correctly?

5 **PROSPECTIVE JUROR:** Uh-huh.

6 **THE COURT:** Okay. 22: Yes, you would tend to give
7 more weight to the testimony of a law enforcement officer?

8 **PROSPECTIVE JUROR:** Uh-huh.

9 **THE COURT:** Okay. So first of all, let's talk
10 about -- I appreciate your candor. You've done exactly what
11 we've asked citizens to do, that is to come in and tell us
12 exactly what they think in response to these questions. So
13 thank you for that.

14 But now that we are there, let's talk a little bit about
15 the fact that you are a mom of two boys, that you have a view
16 that crimes against children are trouble.

17 **PROSPECTIVE JUROR:** Right.

18 **THE COURT:** I think that society in general believes
19 that crimes against children are trouble --

20 **PROSPECTIVE JUROR:** Right.

21 **THE COURT:** -- that's why they're illegal.

22 **PROSPECTIVE JUROR:** Right.

23 **THE COURT:** Okay. But in this court we're not here
24 trying to decide what policy should be and the law should be
25 and so forth. We're here to decide whether or not the

1 Government has proven a case beyond a reasonable doubt in a
2 particular instance. It's really not a trial on the
3 question --

4 **PROSPECTIVE JUROR:** Okay.

5 **THE COURT:** -- of whether crimes that involve sexual
6 exploitation of children are good or bad or right or wrong.
7 That's not the issue.

8 The question is whether or not the Government has
9 presented evidence that is sufficient to convince 12 jurors
10 beyond a reasonable doubt that a person that has been accused
11 by a grand jury is, in fact, guilty beyond a reasonable
12 doubt --

13 **PROSPECTIVE JUROR:** Correct.

14 **THE COURT:** -- of that offense.

15 So while we try hard to find out what's in people's minds,
16 what their thoughts are as they're coming into a case, and what
17 their reactions might be to certain information and so forth,
18 we also count on citizens to put aside, to the extent that they
19 are able, feelings or views that they might have on issues.
20 And instead, while they're sitting as a juror in the trial,
21 focus on that particular part of the case and figure out
22 whether the Government has met its burden or failed to do so.

23 So my questions are really directed to the latter. I
24 appreciate your answers to my first questions. But the
25 question is whether you would be able to be fair and impartial

1 and would the fact that you have the views that you have --

2 **PROSPECTIVE JUROR:** Right.

3 **THE COURT:** -- impact the ability to be fair and
4 impartial and do the job that all jurors are required to do --

5 **PROSPECTIVE JUROR:** Right.

6 **THE COURT:** -- hold the Government to the burden of
7 proof. The Defendant need not prove anything. The defendant
8 is not required to testify. They may testify if they wish to.
9 It may not be held against them in any way. This is our system
10 and these are our rules. And this is a moment where we're
11 looking for sort of a candid sort of self-assessment.

12 And let me assure you, there's no wrong or right answer in
13 this context. It's just the truth.

14 **PROSPECTIVE JUROR:** Right. Okay.

15 **THE COURT:** No matter what the truth is, there's no
16 consequences in this forum to that. We just need to know the
17 truth.

18 **PROSPECTIVE JUROR:** Okay.

19 **THE COURT:** So what do you think? What do you think
20 about sitting as a juror in this case with these charges? Do
21 you think that to the extent that you hold views and have some
22 boys yourself, if those were initially your mind when you heard
23 what these charges are, that you could put that out of your
24 mind and perform the role as I have otherwise described it.

25 **PROSPECTIVE JUROR:** Right. I hope so. I'm human.

1 Seeing anything graphic with this material probably would pull
2 at my motions because I'm a mom. And I would hope I would be
3 totally open to hearing both sides and making my judgment from
4 there. I -- I just -- I hope -- I do hope that of myself in my
5 heart. I want -- I do believe in you are innocent until proven
6 guilty. But this is a tough subject, for me personally.

7 **THE COURT:** Is it possible that people can be accused
8 of crimes in this country and, in fact, they are not guilty?

9 **PROSPECTIVE JUROR:** Yes.

10 **THE COURT:** Does that happen?

11 **PROSPECTIVE JUROR:** Yes. That's why we have court,
12 right?

13 (Laughter.)

14 **THE COURT:** Great job. You must have been in here
15 before and heard me go through this.

16 (Laughter.)

17 **PROSPECTIVE JUROR:** No, I've never been here.

18 **THE COURT:** I'm kidding with you now. That is exactly
19 right. What you just said to me is exactly right. And so, you
20 know, at the end of the day I could ask questions and I can
21 probe and so forth, but at the end I'm not going to be guided
22 by your own sense of yourself and your own sense of what's on
23 your mind, and whether, you know, you are a person who is by
24 virtue of what's in your mind equipped to serve in a manner
25 that I have described, you know, with fairness and

1 impartiality. Hold the Government to their responsibility,
2 which is they have to prove their case beyond a reasonable
3 doubt or a person accused in our country is not guilty.

4 **PROSPECTIVE JUROR:** Right. Okay.

5 **THE COURT:** It doesn't end in a specific question, I'm
6 sorry to say. It's just trying to get you talking about where
7 you think you end up with respect to all of this because the
8 one bottom of my question is, ma'am, can you be a fair and
9 impartial juror?

10 **PROSPECTIVE JUROR:** Yes.

11 **THE COURT:** You believe you can?

12 **PROSPECTIVE JUROR:** Pardon me?

13 **THE COURT:** Is that your answer?

14 **PROSPECTIVE JUROR:** Yes, that's my answer.

15 **THE COURT:** Thank you. Let's see, did we touch on all
16 of your "yes" answers. We took care of the grand jury matter.
17 We have mom of two of boys. Your husband was held at gunpoint.
18 Where did that happen?

19 **PROSPECTIVE JUROR:** In Atlanta, Georgia.

20 **THE COURT:** How long ago?

21 **PROSPECTIVE JUROR:** Thirty years ago.

22 **THE COURT:** Okay. Was he hurt?

23 **PROSPECTIVE JUROR:** No.

24 **THE COURT:** The peeping Tom incident, when did that
25 happen?

1 **PROSPECTIVE JUROR:** Same, about the same time. All in
2 Atlanta.

3 **THE COURT:** Okay. And was -- it sounds like someone
4 was prosecuted in relation to your husband's incident because
5 you said he was a witness.

6 **PROSPECTIVE JUROR:** Uh-huh. Yeah.

7 **THE COURT:** Was there anything about that whole
8 experience that you think would impact your ability to be a
9 fair and impartial juror?

10 **PROSPECTIVE JUROR:** No.

11 **THE COURT:** Now, the peeping Tom situation. You said
12 that this person was maybe more specifically focused on women's
13 apartments?

14 **PROSPECTIVE JUROR:** Correct.

15 **THE COURT:** And would break into women's apartments?

16 **PROSPECTIVE JUROR:** Yes. He'd steal all of their
17 underwear. That's what the thing was.

18 **THE COURT:** Right. Got it. And then was subsequently
19 thought to be looking in windows when he shouldn't have been,
20 that sort of thing?

21 **PROSPECTIVE JUROR:** Uh-huh.

22 **THE COURT:** Do you think you were personally a victim
23 of these activities?

24 **PROSPECTIVE JUROR:** Yes, I called the police.

25 **THE COURT:** You called the police?

1 **PROSPECTIVE JUROR:** Uh-huh.

2 **THE COURT:** You saw him at the window?

3 **PROSPECTIVE JUROR:** Uh-huh.

4 **THE COURT:** Was he apprehended?

5 **PROSPECTIVE JUROR:** Yes, but I'm not sure what
6 happened after that.

7 **THE COURT:** Okay. Is there anything about that
8 experience that you think would affect your ability to be a
9 fair and impartial juror in the trial of this completely
10 unrelated case, but nonetheless a criminal case?

11 **PROSPECTIVE JUROR:** No.

12 **THE COURT:** Okay. I've talked to you about your
13 answer to 16H, "Yes, crimes against children are trouble."
14 We've discussed that, correct?

15 **PROSPECTIVE JUROR:** Uh-huh.

16 **THE COURT:** You indicated that you would tend to give
17 greater or lesser weight to the testimony of a law enforcement
18 officer simply because a person was a law enforcement officer
19 or an agent.

20 Would you tend to give greater weight? Or lesser weight?
21 Which one is it?

22 **PROSPECTIVE JUROR:** Probably greater.

23 **THE COURT:** Okay. And tell me about that?

24 **PROSPECTIVE JUROR:** We have relatives that were in the
25 law enforcement, in the military. And we have good friends --

1 so I just -- I trust those people, so . . .

2 **THE COURT:** Well, I think all of us in society hope
3 that we could trust people who have taken an oath to protect us
4 and where a badge and so forth. But here I go with my
5 questions, and you're going to be ready this time. Does it
6 sometimes happen that people who have taken such an oath and
7 are in such roles are dishonest?

8 **PROSPECTIVE JUROR:** Of course.

9 **THE COURT:** Does it sometimes happen that while we
10 hope that most law enforcement officers have absolute integrity
11 that some do not?

12 **PROSPECTIVE JUROR:** Correct.

13 **THE COURT:** How do we know?

14 **PROSPECTIVE JUROR:** Probably just from the news really
15 that -- I don't know any personal.

16 **THE COURT:** Okay. The news is one source. What about
17 going to court? Does that help us sometimes to figure out
18 whether someone is truthful or not truthful?

19 **PROSPECTIVE JUROR:** Hopefully with evidence.

20 **THE COURT:** Yeah. And sometimes a person gets on the
21 witness stand and they give their testimony and they're
22 subjected to cross-examination. That's to test their
23 testimony, right?

24 **PROSPECTIVE JUROR:** Right.

25 **THE COURT:** And are those some of the processes that

1 we use to try to ferret out instances where people are not
2 truthful, perhaps even law enforcement officers?

3 **PROSPECTIVE JUROR:** Right.

4 **THE COURT:** And could cross-examination perhaps reveal
5 that a law enforcement officer is not being truthful?

6 **PROSPECTIVE JUROR:** Yes.

7 **THE COURT:** And does that then make it necessary and
8 appropriate for a juror to watch and listen --

9 **PROSPECTIVE JUROR:** Right.

10 **THE COURT:** -- and use all of their best instincts and
11 skills, the profoundly powerful skills that one develops as a
12 mother listening to stories, testimony and et cetera, and sort
13 out the truth?

14 **PROSPECTIVE JUROR:** Right.

15 **THE COURT:** So I understand the answer that you gave
16 me, but if you were selected to serve as a juror in this case,
17 could you nonetheless play that role as an independent arbiter
18 on a jury, and listen to that testimony and decide what you
19 think of that testimony in that particular instance, based on
20 how it's presented to you, the other facts and issues in the
21 case, and not just automatically believe somebody or disbelieve
22 somebody just because of the job they hold or the position they
23 occupy?

24 **PROSPECTIVE JUROR:** Yes.

25 **THE COURT:** Now, you can hear where I'm going with my

1 question.

2 **PROSPECTIVE JUROR:** Yeah.

3 **THE COURT:** They're calling leading questions.

4 **PROSPECTIVE JUROR:** Right.

5 **THE COURT:** They're questions that kind of imply the
6 answers. So I stop at the end of it and say, yeah, okay, the
7 judge will ask all of the questions and lead you down the path
8 and so forth. But I'm sincere in what I am trying to do here.

9 I'm trying to make you think but I also don't want to
10 overwhelm your will or what it is that you really believe so
11 I'll come back to the basic question.

12 **PROSPECTIVE JUROR:** Right.

13 **THE COURT:** A police officer or law enforcement agent,
14 somebody like that takes the stand in this case, just because
15 they worked for the FBI for 14 years or XYZ police department
16 for 20 years, do you automatically believe them? Do you give
17 their testimony more weight simply because they're law
18 enforcement officer? Or are you going to listen to it and
19 think about it critically and decide what you can?

20 **PROSPECTIVE JUROR:** I think I'm going to think about
21 it critically and see what the evidence is that they have and
22 see what's presented and decide from there.

23 **THE COURT:** Okay. Bear with me a second. I want to
24 talk to the lawyers.

25 (Whereupon, the following conference was held at the

1 bench:)

2 **THE COURT:** Government have any issues or questions in
3 light of mine?

4 **MS. MCGUINN:** No, Your Honor.

5 **THE COURT:** Mr. Nieto, questions or issues?

6 **MR. NIETO:** No additional questions. I would make a
7 motion to strike for cause.

8 **THE COURT:** I'll hear you now. Go ahead.

9 **MR. NIETO:** Your Honor, I understand her final answers
10 after Your Honor's leading questions at the conclusion, but
11 when she initially had started, she indicated based on her past
12 experiences, but more specifically because of motherhood of two
13 children, that she hoped she would be able to be fair and
14 impartial but this kind of momentarily would be pulling on her
15 heartstrings because she's a mother. And not to mention she
16 had an incident back in at Atlanta regarding a peeping Tom.
17 There is a voyeuristic aspect in this case and our concern
18 would be --

19 **THE COURT:** Tell me about that? Tell me about what
20 you're expecting in that regard?

21 **MR. NIETO:** Your Honor, this is a case about --

22 **THE COURT:** You're talking about the children running
23 without clothes on, is that the --

24 **MR. NIETO:** Yes, Your Honor.

25 **THE COURT:** She's gone for cause.

1 (Whereupon, the bench conference was concluded.)

2 **THE COURT:** Thank you, Juror 321. You are excused.
3 You will not serve on this jury. You may go through that door
4 and then take a left turn. You need not call back on Friday.

5 **PROSPECTIVE JUROR:** Okay, thank you.

6 **THE COURT:** Thank you, ma'am. I appreciate your
7 participation.

8 Juror 318 is next.

9 Good afternoon, ma'am. I'll be with you very shortly.

10 **PROSPECTIVE JUROR:** No problem.

11 **THE COURT:** Please make sure you're nice and close to
12 that microphone.

13 You have a few "yes" answers to my question. First of
14 all, 28: Do you have a hearing or sight impairment? "Yes,
15 wear glasses or contacts."

16 But with correction you're fine?

17 **PROSPECTIVE JUROR:** I'm fine.

18 **THE COURT:** Thank you, ma'am. Let's go back to
19 Question 16H: Do you hold any beliefs as to crimes involving
20 children that would make it difficult for you to render a fair
21 and impartial verdict? 16H, "sensitive about children" is what
22 you say.

23 16I: As part of the evidence in the case you may see
24 pictures of children that may be graphic, et cetera. Your
25 answer: "Would be difficult to see."

1 **PROSPECTIVE JUROR:** Yes.

2 **THE COURT:** 22: Tend to give greater or lesser weight
3 to the testimony of a law enforcement officer? "Yes, I'd
4 assume more duty to tell the truth."

5 **PROSPECTIVE JUROR:** Yeah, that's basically it.

6 **THE COURT:** And I think those are all your "yes"
7 answers. Does that sound right to you?

8 **PROSPECTIVE JUROR:** Yes.

9 **THE COURT:** Okay. We'll sort of go back and talk
10 about a couple of them.

11 **PROSPECTIVE JUROR:** Okay.

12 **THE COURT:** So in response to Question 16H you
13 responded that you are sensitive about children. Are you a
14 mother?

15 **PROSPECTIVE JUROR:** Yes, I am.

16 **THE COURT:** How many children do you have?

17 **PROSPECTIVE JUROR:** I just have one son. He's 10.

18 **THE COURT:** He's 10 years old. Congratulations to
19 you.

20 **PROSPECTIVE JUROR:** Thank you.

21 **THE COURT:** Is your son in school?

22 **PROSPECTIVE JUROR:** He's enjoying summer break right
23 now.

24 **THE COURT:** But school is about to start.

25 **PROSPECTIVE JUROR:** With school starting he'll be

1 going into fifth grade.

2 **THE COURT:** Is he excited or dreading?

3 **PROSPECTIVE JUROR:** He's mixed emotions.

4 (Laughter.)

5 **THE COURT:** Sounds like he's right where he supposed
6 to be.

7 **PROSPECTIVE JUROR:** Yes.

8 **THE COURT:** You have heard my reference to what this
9 trial is about and what the accusations are. Of course these
10 are just accusations at this point in time, and the role of the
11 jury is to listen to the evidence and see whether or not the
12 Government carries its burden of proofing their allegations
13 beyond a reasonable doubt to the unanimous satisfaction of the
14 jury. That's the job of jurors.

15 Certainly there are accusations in this case that involve
16 children, adolescents, that sort of thing. The topic has an
17 inherent sensitivity, I would think.

18 **PROSPECTIVE JUROR:** Yeah, I would assume everybody
19 would be sensitive to children. So I was kind of mixed
20 emotions on what to write for that. I don't know if it would
21 make me impartial but I just figured I had to note that yes.

22 **THE COURT:** No, no you're great. You're zeroing in on
23 exactly where I was going, and that is, okay, sensitive
24 subject. But the question really is whether you can discharge
25 the duties of a juror, which are to be fair and impartial.

1 That is to say, okay, I've heard what the charge is, but now
2 we'll see what the evidence is.

3 **PROSPECTIVE JUROR:** Right.

4 **THE COURT:** Because that's the Government's
5 responsibility, and we'll see if they can present the evidence
6 that the law requires before any sort of guilty verdict is
7 returned. There has to be proof beyond a reasonable doubt to
8 the unanimous satisfaction of every juror.

9 So a trial can be about a sensitive subject for sure. And
10 yet we depend on jurors and their capacity to nonetheless apply
11 the law as I've just described it, even in sensitive context.
12 Even if they, themselves, are the mother of a 10-year-old
13 child. At the end of the day it's really, you know, a question
14 for the individual juror in the privacy of your own heart and
15 mind about, you know, whether you can discharge that
16 responsibility.

17 You've also told me in response to 16I that it would be
18 difficult to see certain images and there will be images during
19 it trial of adolescent male genitalia. Perhaps pictures that
20 depict nudity of young males. And perhaps a video depiction of
21 male masturbation. There can be -- there could be images of
22 that nature in this case and yet the responsibility of the
23 juror is to sit and watch and listen and evaluate that
24 evidence, along with all of the other evidence that may be
25 presented in the trial, and to sift through all of it and

1 engage in this very important process of sifting through all of
2 it. And then determining at the end of the case whether it
3 does prove beyond a reasonable doubt or it doesn't. That's the
4 task. That's the job.

5 **PROSPECTIVE JUROR:** Right.

6 **THE COURT:** And I can describe it. I can put more
7 details out there as I have just now and so forth, but at the
8 end of the day it's really a question of your capacity for, you
9 know, sort of a bringing a discipline to your thinking process,
10 and evaluating what you see and hear, and applying the law as I
11 give it to you, and then rendering a verdict based on the law
12 and the facts, and not based on prejudice or special
13 sensitivities because you're the mother of a 10 year old, or a
14 particular sensitivity to seeing an image of male genitalia.
15 You know, something that perhaps is a vast departure from your
16 ordinary life's experience.

17 These are the things that we do call upon jurors to do if
18 they are able.

19 **PROSPECTIVE JUROR:** Right. I mean, yeah, I could
20 watch it. I just felt weird not saying anything, like, any
21 time I have mixed motions. But yeah, I wouldn't, like, to turn
22 away or not be able to watch it I guess is what I'm trying to
23 say, but it wouldn't be my favorite thing. Yeah.

24 **THE COURT:** Bottom line is, do you think that in such
25 a case you could discharge your duty as the juror and deliver a

1 fair and impartial verdict at the end of the process.

2 **PROSPECTIVE JUROR:** Oh, yeah, yes, I would be able to.

3 **THE COURT:** Not a question? Not a problem for you?

4 **PROSPECTIVE JUROR:** No.

5 **THE COURT:** Okay. You assume police officers are
6 under a duty to tell the truth, but is it possible that a
7 police officer or law enforcement officer would not tell the
8 truth?

9 **PROSPECTIVE JUROR:** Yes. And I know they all -- like,
10 everyone has their own personal biases and things, too, that
11 they bring into it. So I don't think it's impossible that they
12 would lie. But I would just assume a cop or an agent would
13 have more of a duty to tell the truth than --

14 **THE COURT:** Well --

15 **PROSPECTIVE JUROR:** -- not the duty --

16 **THE COURT:** They have a duty to tell the truth.
17 Everybody has a duty so . . .

18 (Laughter.)

19 **PROSPECTIVE JUROR:** Right. That's why I'm like, I
20 don't know if that's the right word. But I would just think
21 there would be a little bit more of an --

22 **THE COURT:** Inclination?

23 **PROSPECTIVE JUROR:** Yes, yes, to tell the truth.

24 **THE COURT:** I don't want to put words in your mouth
25 but that seemed to be where you were headed.

1 **PROSPECTIVE JUROR:** Yes.

2 **THE COURT:** But would you also agree that regardless
3 of what inclinations one might ascribe to a particular
4 profession or group of persons, that the individual might not
5 subscribe to that and that the individual case there might not
6 be compliance with that societal expectation?

7 **PROSPECTIVE JUROR:** Yes, I agree with that.

8 **THE COURT:** And that there need to be checks and one
9 of those checks is a jury.

10 **PROSPECTIVE JUROR:** Right.

11 **THE COURT:** And the critical thinking of jurors, the
12 critical listening skills of jurors?

13 **PROSPECTIVE JUROR:** Yes. Yeah, I wouldn't take it as,
14 like, well, he's a cop so he had to be telling 100 percent
15 truth. But I would just, again, I would be more inclined to
16 think they would be than not; but I would take the same
17 critical thinking skills and judgment for I feel like any
18 witness.

19 **THE COURT:** Well, if I instructed you to do exactly
20 what you just said, and that is, evaluate their testimony like
21 you would evaluate the testimony of any witness, would you be
22 able to do that?

23 **PROSPECTIVE JUROR:** Yes.

24 **THE COURT:** You live in Aberdeen?

25 **PROSPECTIVE JUROR:** Yes.

1 **THE COURT:** You work as a claims adjustor?

2 **PROSPECTIVE JUROR:** Yes.

3 **THE COURT:** How long you been doing that work?

4 **PROSPECTIVE JUROR:** Oh, gosh, like 10 years.

5 **THE COURT:** Is there a particular type or category of
6 claims that you handle?

7 **PROSPECTIVE JUROR:** So I'm a bodily injury adjustor.
8 When the other party's injured, I settle their injury claim
9 with their attorney and their attorney's office.

10 **THE COURT:** Okay. Are you married?

11 **PROSPECTIVE JUROR:** No.

12 **THE COURT:** Have you ever been?

13 **PROSPECTIVE JUROR:** No.

14 **THE COURT:** Your child is 10 years old and about to go
15 into the fifth grade?

16 **PROSPECTIVE JUROR:** Yes.

17 **THE COURT:** Do you have interests outside of work?
18 Things that you do? Perhaps things that you share with your
19 child? Things you like to do?

20 **PROSPECTIVE JUROR:** Oh, gosh. TV. Movies. Hiking.
21 Take my dog out to do a lot.

22 **THE COURT:** Yeah.

23 **PROSPECTIVE JUROR:** We have a three-year-old puppy or
24 dog. Yeah, that's about it.

25 **THE COURT:** And your educational background?

1 **PROSPECTIVE JUROR:** I have an associate's degree in
2 social work.

3 **THE COURT:** In social work?

4 **PROSPECTIVE JUROR:** Uh-huh.

5 **THE COURT:** Okay. Bear with me while I talk to the
6 lawyers for a minute.

7 **PROSPECTIVE JUROR:** Okay.

8 (Whereupon, the following conference was held at the
9 bench:)

10 **THE COURT:** Government have any issues or questions in
11 light of mine?

12 **MS. MCGUINN:** No, Your Honor.

13 **THE COURT:** Mr. Nieto, have any questions or issues in
14 light of mine?

15 **MR. NIETO:** No, Your Honor.

16 **THE COURT:** Thank you.

17 (Whereupon, the bench conference was concluded.)

18 **THE COURT:** Juror 318, you may return to courtroom 1B.
19 Thank you, ma'am.

20 Let's stop one second.

21 It's 4:00. We're only going to go until about 5:00.

22 Let's excuse jurors that we have no chance of getting to today.

23 Ms. Cohen, go to courtroom 1B and ask all jurors with
24 numbers 234 and lower to follow you into the courtroom and
25 we'll assemble them standing in front of the jury box. All

1 jurors, number 234 and lower. The others can remain in the
2 courtroom.

3 So, Counsel, obviously I'm assembling those others to
4 return at 9:15 tomorrow morning.

5 Please come into the courtroom and we'll have you go all
6 the way to the stairway. Then stop there. Then you'll only
7 have to stand two or three deep because there's a large number
8 of you. That's it. Please crowd in there a little bit if you
9 would. Keep filing in, thank you. We're going to have you all
10 file into one corner of the courtroom here. And I'm going to
11 give you some instructions and then release you for the
12 evening. You're going to have to stand two or three deep.
13 Let's go another row in front of each other and that's it.

14 Okay. You should be in the courtroom now only if your
15 juror number is 234 or lower. Addressing myself to the jury
16 who have such numbers.

17 You are finished for today. We are not going to succeed
18 in selecting this jury today. This process is going to
19 continue tomorrow. There's virtually no chance that we will
20 get to your group today so there's no point in holding you here
21 any longer. Instead, I'm going to excuse you for the evening
22 but require you to return tomorrow to courtroom 1B where you
23 have just been. And you need to return there by 9:15 tomorrow
24 morning. By 9:15 tomorrow morning you need to return to
25 courtroom 1B where you just were. 9:15, courtroom 1B.

1 I have some additional instructions for you. Overnight,
2 you are not to discuss this case with anyone. You're not to
3 discuss it with anyone that you've met today on your jury
4 service when you were considered for potential selection as a
5 juror in this case. You're not to discuss it with any of your
6 friends or family. You may inform them only that you've been
7 called for possible jury service in federal court, that you are
8 being considered for selection to serve on a criminal jury,
9 criminal trial. But you may not tell them anything about the
10 case. You may not tell them who the lawyers are, who the judge
11 is, who has been accused, what the charges potentially are.
12 You cannot tell them any of those details. Why do we put you
13 under that sort of restriction? Because if you start to talk
14 about the case, "Oh, I got called downtown for jury selection.
15 Oh, what kind of case is it? Oh, it's a bank fraud case. Oh
16 one time I was in the bank and I saw a fellow employee and they
17 stole the money this way," et cetera.

18 All of a sudden you're getting all kinds of information
19 pumped at you about a bank fraud, and we don't want you hearing
20 about other bank frauds if you've been called down to court to
21 serve as juror on a bank fraud case.

22 Now, this isn't a bank fraud case. You know what it is
23 about. But I don't want you talking about the case, what kind
24 of case it is, who's involved in the case and so forth. And
25 it's essential to preserve the fair trial process that you

1 follow that instruction. Obviously you're on your honor in
2 this regard, but I appeal to you as citizens to take that
3 instruction seriously. Each of you in your own mind can
4 understand why. We don't want you influenced by the opinions
5 of anybody else.

6 If you do end up serving on this jury, we want you to try
7 this case solely based on the evidence presented to you here,
8 not based on what your neighbors, your relatives, your kids,
9 your parents, anybody else might happen to think about this or
10 related topics. Trying hard to give you a fair trial -- make
11 sure that there's a fair trial.

12 Okay. I've just been corrected. Don't kill the
13 messenger. You have to be here at 8:30. It's not my rule, but
14 you have to be here at 8:30.

15 And do they have to check in on the fourth floor?

16 **THE CLERK:** Yes.

17 **THE COURT:** Okay. I was trying to bypass it. You
18 can't just go to courtroom 1B. You've got to be here by 8:30.
19 You've got to go to the fourth floor where you were before.
20 You've got to check in there. Go through that process. There
21 are reasons for these rules. I don't want you to think I'm
22 thinking this is silly. I'm sure it's important. And then
23 you'll be brought down here to 1B.

24 So 8:30 and then you'll be brought down.

25 Okay. Second thing, no paying attention to, watching,

1 listening to, or reading any media, any social media, any
2 Facebook, TikTok, any of that kind of stuff that relates to
3 this case, this kind of case, the people who might be involved
4 in this case. Something like that happens to pop up on your
5 screen, you shut it down, and you move away from it for the
6 same reason that I described earlier. You're now under
7 responsibility to keep your mind clear of all of that kind of
8 stuff.

9 Obviously avoid all contact with any -- the participants
10 in the trial. Any of the people that you see in this courtroom
11 whatever, by chance you go to a restaurant tonight and you
12 happen to see them, steer clear of them. No contact.

13 Do not make any independent investigation of the law or
14 the facts that might be relevant to this case. Do not conduct
15 internet searches with respect to the issues that might be
16 presented in this trial based on what you've heard so far. Do
17 not consult external sources such as encyclopedias or
18 dictionaries and reference any of the issues or terms that you
19 might have heard about so far today. Those are your
20 restrictions. Okay.

21 Return promptly 8:30 tomorrow morning, fourth floor, check
22 in. We'll have you back into courtroom 1B.

23 One thing you learned today, unfortunately there's a lot
24 of dead time when you're on jury duty. I apologize to you for
25 that. Please feel free to bring a book, a magazine, your

1 Kindle. You can bring your phone and turn it on and read on
2 your phone. Make sure it's well charged up. We do allow you
3 to use your electronic devices when you're not in this
4 courtroom but when you're in the holding area. In fact, we
5 encourage you to do it.

6 Ladies and gentlemen, you are excused until 8:30 tomorrow
7 morning. The door is behind you, out that corner.

8 **THE COURT:** Becca.

9 311. Clear the gallery.

10 Good afternoon, ma'am. You are Juror No. 311.

11 **PROSPECTIVE JUROR:** I am.

12 **THE COURT:** I've got your answer sheet up here. I
13 have been going through it. You have some "yes" answers. I'm
14 not going to go in any particular order. I'm going to zero
15 right in on Question 16E: Specifically in this case, the
16 allegations include those of sexual abuse. Has any member of
17 your immediate family or close associates ever been a victim
18 witness, accused or convicted of a crime of a sexual nature?
19 Answer, "Yes. Self. Sister."

20 **PROSPECTIVE JUROR:** Yes.

21 **THE COURT:** What can you tell me about this?

22 **PROSPECTIVE JUROR:** My stepfather sexually assaulted
23 myself and my sister at different times and in different ways.
24 So . . .

25 **THE COURT:** When you were a child, an adolescent?

1 **PROSPECTIVE JUROR:** I was personally 16. My sister
2 was 19, I believe.

3 **THE COURT:** Okay. One second while I talk to the
4 lawyers.

5 (Whereupon, the following conference was held at the
6 bench:)

7 **THE COURT:** Mr. Nieto?

8 **MR. NIETO:** Your Honor, we'd ask to strike for cause.

9 **THE COURT:** Granted.

10 (Whereupon, the bench conference was concluded.)

11 **PROSPECTIVE JUROR:** Thank you, ma'am. You are excused
12 as a juror in this case. You need not check in on Friday so
13 you can just depart. I'd ask you to go through this door right
14 here out to the main hallway, turn left, and then you may leave
15 the building. Thank you.

16 **PROSPECTIVE JUROR:** All right. Thank you very much.

17 **THE COURT:** Gallery can come back in. The people that
18 were excluded.

19 Front row, ma'am. Thank you. Looking at your
20 questionnaire here. 17, yes, your stepfather is a real estate
21 lawyer and general counsel for General Dynamics.

22 **PROSPECTIVE JUROR:** That's correct.

23 **THE COURT:** And no other "yes" answers, correct?

24 **PROSPECTIVE JUROR:** Correct.

25 **THE COURT:** Okay. And you live out of Glen Arm.

1 **PROSPECTIVE JUROR:** Yes.

2 **THE COURT:** Do you work in Owings Mills or in
3 Baltimore in your role as a bond trader?

4 **PROSPECTIVE JUROR:** I work downtown in Baltimore.

5 **THE COURT:** How long you been doing that work?

6 **PROSPECTIVE JUROR:** Twelve years.

7 **THE COURT:** Tell me about your educational background?

8 **PROSPECTIVE JUROR:** I have an undergraduate degree
9 from Towson University and a master's from Loyola.

10 **THE COURT:** In business or finance?

11 **PROSPECTIVE JUROR:** In math and finance.

12 **THE COURT:** You're married?

13 **PROSPECTIVE JUROR:** Yes.

14 **THE COURT:** What does your spouse do?

15 **PROSPECTIVE JUROR:** He's an art director for a
16 publishing company in Baltimore.

17 **THE COURT:** How long has he been doing that work?

18 **PROSPECTIVE JUROR:** Fifteen plus years.

19 **THE COURT:** Do you have any children?

20 **PROSPECTIVE JUROR:** I have one son, he's 2.

21 **THE COURT:** You have a 2-year-old son?

22 **PROSPECTIVE JUROR:** Yes.

23 **THE COURT:** While you're working, someone is caring
24 for him?

25 **PROSPECTIVE JUROR:** Yes, my mother does.

1 **THE COURT:** Your mother takes care of him, okay. If
2 you're the mother of a 2 year old and otherwise working full
3 time, you don't have much spare time, but if you did have spare
4 time how would do you use it? What do you do for fun?

5 **PROSPECTIVE JUROR:** I like to go hiking. I crochet.
6 Spend time with family.

7 **THE COURT:** Did you grow up in this area?

8 **PROSPECTIVE JUROR:** I did, in Towson.

9 **THE COURT:** In Towson. Where did you go to high
10 school?

11 **PROSPECTIVE JUROR:** Towson High.

12 **THE COURT:** Towson High. Very good. Okay. Bear with
13 me for a second while I talk to the lawyers.

14 (Whereupon, the following conference was held at the
15 bench:)

16 **THE COURT:** Government have any issues or questions in
17 light of mine?

18 **MR. NIETO:** No, Your Honor.

19 **THE COURT:** Mr. Nieto, questions?

20 **MR. NIETO:** No, Your Honor. Thank you.

21 **THE COURT:** Okay. No issues?

22 **MR. NIETO:** None.

23 (Whereupon, the bench conference was concluded.)

24 **THE COURT:** Ma'am, thank you. You may return to
25 courtroom 1B.

1 PROSPECTIVE JUROR: Thank you.

2 THE COURT: Good afternoon, ma'am.

3 PROSPECTIVE JUROR: Hello.

4 THE COURT: I'm going to ask you to scoot -- you can't
5 move the chair but move close to the microphone because it
6 doesn't pick up very well. I've reviewed your jury
7 questionnaire. I see that you have no "yes" answers; is that
8 correct?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: Okay. Very good. So you live in
11 Edgewood?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: How long you been living out there?

14 PROSPECTIVE JUROR: My whole life?

15 THE COURT: Your whole life?

16 PROSPECTIVE JUROR: Yeah.

17 THE COURT: You went to high school out there?

18 PROSPECTIVE JUROR: Yeah.

19 THE COURT: Very good. And you're working for Amazon?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: What do you do for them?

22 PROSPECTIVE JUROR: I'm a process assistant.

23 THE COURT: Process assistant?

24 PROSPECTIVE JUROR: Uh-huh.

25 THE COURT: So do you work in one of those big, huge

1 Amazon facilities?

2 **PROSPECTIVE JUROR:** Yes.

3 **THE COURT:** And when you're in there you're one of
4 these people who sometimes magically instantly puts together my
5 order and somehow figures out how to get it on the right truck
6 and send it to my house?

7 **PROSPECTIVE JUROR:** Yes.

8 **THE COURT:** What specifically do you do?

9 **PROSPECTIVE JUROR:** I fix, like, problems with
10 shipments. And I train people how to do that as well.

11 **THE COURT:** Okay. So sometimes things get fouled up,
12 the wrong thing got sent to the wrong place?

13 **PROSPECTIVE JUROR:** Yes.

14 **THE COURT:** Then you sort it out. Is there a lot of
15 scanning involved in that --

16 **PROSPECTIVE JUROR:** Yeah.

17 **THE COURT:** -- and trying to figure out why did this
18 get misdirected and so forth?

19 **PROSPECTIVE JUROR:** Yes.

20 **THE COURT:** Does it happen very often?

21 **PROSPECTIVE JUROR:** All the time.

22 **THE COURT:** Oh, don't tell me that.

23 (Laughter.)

24 **THE COURT:** Okay. How long you been with Amazon?

25 **PROSPECTIVE JUROR:** Nine years.

1 THE COURT: Nine year. Do you like it?

2 PROSPECTIVE JUROR: It's okay.

3 THE COURT: It's okay, all right. Are you married?

4 PROSPECTIVE JUROR: No.

5 THE COURT: Have you ever been?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Do you have any kids?

8 PROSPECTIVE JUROR: No.

9 THE COURT: What do you do in your spare time.

10 PROSPECTIVE JUROR: Sleep. Watch TV.

11 THE COURT: Sleep and watch TV. Do you have to
12 commute far for your job?

13 PROSPECTIVE JUROR: It's about 35 minutes.

14 THE COURT: About 35 minutes. Okay. Take any trips
15 recently? Do you get any vacation from Amazon? Or do you just
16 work all of the time?

17 PROSPECTIVE JUROR: I just came back from vacation.

18 THE COURT: Where did you go?

19 PROSPECTIVE JUROR: Puerto Rico.

20 THE COURT: How was that?

21 PROSPECTIVE JUROR: It was fantastic.

22 THE COURT: Would you recommend it?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Did you go to like a resort down there or
25 did you go on a tour?

1 **PROSPECTIVE JUROR:** No, we stayed at an Airbnb.

2 **THE COURT:** Go with some girlfriends, family?

3 **PROSPECTIVE JUROR:** Work friends.

4 **THE COURT:** Work friends.

5 **PROSPECTIVE JUROR:** Uh-huh.

6 **THE COURT:** How's the air service going down there
7 from Baltimore? Can you get there pretty easily or is it kind
8 of hard?

9 **PROSPECTIVE JUROR:** It was easy.

10 **THE COURT:** Just one flight or do you have to change
11 planes somewhere?

12 **PROSPECTIVE JUROR:** Direct flight.

13 **THE COURT:** Thank you, ma'am. I'm going to talk to
14 the lawyers for a minute.

15 (Whereupon, the following conference was held at the
16 bench:)

17 **THE COURT:** Ms. McGuinn, any issues or questions in
18 light of mine?

19 **MS. MCGUINN:** No, Your Honor.

20 **THE COURT:** Mr. Nieto?

21 **MR. NIETO:** No, Your Honor.

22 **THE COURT:** Thank you.

23 (Whereupon, the bench conference was concluded.)

24 **THE COURT:** Thank you, ma'am. You may return to
25 courtroom 1B.

1 **PROSPECTIVE JUROR:** Okay.

2 **THE COURT:** Good afternoon, sir. I'll be with you in
3 just a minute. So are you currently working as an overnight
4 security guard --

5 **PROSPECTIVE JUROR:** No, my daughter worked there for,
6 like, three years.

7 **THE COURT:** That's not you?

8 **PROSPECTIVE JUROR:** No, I worked a couple night
9 shifts. It wasn't my real job.

10 **THE COURT:** Okay. Got it. That's just a security
11 guard at some kind of petroleum installation.

12 **PROSPECTIVE JUROR:** Yeah, it's where I actually work.
13 I drive a truck out of there. And you're basically watching
14 making sure no one gets in and messes with the trucks.

15 **THE COURT:** Got it.

16 **PROSPECTIVE JUROR:** It's not escorting people or
17 anything else.

18 **THE COURT:** It's just perimeter security.

19 **PROSPECTIVE JUROR:** Overnight security, yes.

20 **THE COURT:** Out in Elkton.

21 And, Counsel, that was a yes to number 13.

22 Gallery needs to be cleared.

23 Question 16A: Have you or a member of your immediate
24 family, close associates, ever been the victim of a crime?

25 Answer: "Yes, daughter sexually assaulted by her bus driver."

1 PROSPECTIVE JUROR: She was in high school, yes.

2 THE COURT: How long ago was that?

3 PROSPECTIVE JUROR: Ten years.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR: He was 22, 23 and decided a
6 14-year-old is what he wanted.

7 THE COURT: Was she alone on the bus?

8 PROSPECTIVE JUROR: He got her alone on the bus.

9 THE COURT: Yeah.

10 PROSPECTIVE JUROR: Convinced her --

11 THE COURT: I'm sorry.

12 PROSPECTIVE JUROR: He convinced her that -- because
13 he loved her, and he wanted to --

14 THE COURT: Okay. So it was more coercion than
15 physical force?

16 PROSPECTIVE JUROR: Yes, yes.

17 THE COURT: Okay. Was anyone prosecuted?

18 PROSPECTIVE JUROR: Yes. He's on sexual predator list
19 and no longer allowed around school kids.

20 THE COURT: Okay. And did your daughter testify?

21 PROSPECTIVE JUROR: No. He admitted he did it, and
22 they said she would not have to.

23 THE COURT: Okay. And so, "yes," victim. Is that the
24 same?

25 PROSPECTIVE JUROR: Yes.

1 **THE COURT:** That's the Question 16E. Same event
2 you're telling me about?

3 **PROSPECTIVE JUROR:** Yes, yes.

4 **THE COURT:** And then we get to 16H: Do you hold any
5 beliefs as to crimes involving children that would make it
6 difficult for you to render a fair and impartial verdict based
7 solely on the evidence and the law? And you answered "yes."
8 Tell me about that.

9 **PROSPECTIVE JUROR:** It's asking me if --

10 **THE COURT:** Let me read it to you more slowly. I went
11 very fast.

12 Do you hold any beliefs as to crimes involving children
13 that would make it difficult for you to render a fair and
14 impartial verdict based solely on the evidence and the law?
15 And your answer was "yes."

16 **PROSPECTIVE JUROR:** I think I'd be swayed because of
17 that event. I would be -- if -- I guess I would lean more
18 towards I guess not -- I don't know how to word it.

19 **THE COURT:** I think you've told us. Stop for a
20 second. Let me talk to the lawyers.

21 (Whereupon, the following conference was held at the
22 bench:)

23 **THE COURT:** Mr. Nieto?

24 **MR. NIETO:** Your Honor, I'd make a motion to strike
25 for cause.

1 **THE COURT:** Granted.

2 (Whereupon, the bench conference was concluded.)

3 **THE COURT:** Thank you, sir. You may depart. You will
4 not serve on this jury. You can go out through this door here
5 and make a left turn. You're excused. And you're not required
6 to call in on Friday.

7 **PROSPECTIVE JUROR:** Okay.

8 **THE COURT:** Thank you. Appreciate you being here and
9 thanks for your patience today.

10 Good afternoon, ma'am.

11 **PROSPECTIVE JUROR:** Good afternoon.

12 **THE COURT:** Can you move up a little bit and move
13 close to that microphone. The chair doesn't move itself so you
14 have to kind of slide yourself. Are you okay?

15 **PROSPECTIVE JUROR:** Yes, sir.

16 **THE COURT:** Okay. So you've got sleep apnea?

17 **PROSPECTIVE JUROR:** Yes.

18 **THE COURT:** So does it hit you sometimes during the
19 day?

20 **PROSPECTIVE JUROR:** All day.

21 **THE COURT:** All day long. You fall asleep, wake up,
22 fall asleep?

23 **PROSPECTIVE JUROR:** Yes.

24 **THE COURT:** How long you been struggling with that?

25 **PROSPECTIVE JUROR:** For about five years.

1 **THE COURT:** That's tough, isn't it?

2 **PROSPECTIVE JUROR:** Yes.

3 **THE COURT:** Are you able to work or not too much?

4 **PROSPECTIVE JUROR:** I work, I stand up. I can't have
5 a sit-down job because I fall asleep.

6 **THE COURT:** Okay, ma'am. I'm going to excuse you from
7 jury service and you'll be also removed from our jury rolls
8 because I don't think with sleep apnea you can sit in a jury
9 box all day and listen to evidence. Do you?

10 **PROSPECTIVE JUROR:** No.

11 **THE COURT:** I don't think so. I'm sorry about that.
12 I'm going to go ahead and excuse you.

13 **PROSPECTIVE JUROR:** Okay, thank you.

14 **THE COURT:** You may depart and you do not need to call
15 back on Friday and let's strike her from the rolls. Thank you.

16 Hello, ma'am. I'll be with you in just a second here.

17 **PROSPECTIVE JUROR:** Okay.

18 **THE JUDGE:** Gallery is clear.

19 Good afternoon to you, ma'am.

20 **PROSPECTIVE JUROR:** Good afternoon.

21 **THE COURT:** Thank you for joining us here. I take it
22 that your daughter-in-law is the special assistant to the clerk
23 of this court.

24 **PROSPECTIVE JUROR:** Oh, this court? Well, she works
25 here.

1 **THE COURT:** In this court I mean the United States
2 District Court.

3 **PROSPECTIVE JUROR:** That's correct, yes.

4 **THE COURT:** I don't mean this courtroom here.

5 **PROSPECTIVE JUROR:** I mean the whole place.

6 **PROSPECTIVE JUROR:** That's right, yes.

7 **THE COURT:** She works directly for the clerk?

8 **PROSPECTIVE JUROR:** That's right.

9 **THE COURT:** She is the clerk's kind of right-hand
10 person?

11 **PROSPECTIVE JUROR:** That's correct.

12 **THE COURT:** At least that's how I would describe it.

13 **PROSPECTIVE JUROR:** Yes, that is correct.

14 **THE COURT:** And she is quite competent at what she
15 does.

16 **PROSPECTIVE JUROR:** Thank you.

17 **THE COURT:** That's a paid political advertisement.

18 (Laughter.)

19 **THE COURT:** Do you think there's anything about the
20 fact that your daughter-in-law works here that would affect
21 your ability to be a fair and impartial juror? She wouldn't
22 have anything to do with this case.

23 **PROSPECTIVE JUROR:** No, no, not at all.

24 **THE COURT:** So I'll get to talking to you about your
25 work, which is obviously significant. You're a supervisor for

1 the Maryland Department of Juvenile Services in Baltimore City.

2 **PROSPECTIVE JUROR:** That's correct.

3 **THE COURT:** But I really want to back up to Question
4 No. 10. I gave a brief description of the case. Is there
5 anything about it that would give you difficulty in terms of
6 maintaining an open mind, being a fair and impartial juror.
7 We've cleared the gallery. You've told us in your response
8 that you're a survivor of rape and prior molestation.

9 Is that all true?

10 **PROSPECTIVE JUROR:** That's correct.

11 **THE COURT:** I want to be completely open with you and
12 while of course a deeply regret your prior victimization --

13 **PROSPECTIVE JUROR:** Thank you.

14 **THE COURT:** -- where does that leave you in terms of
15 your ability to be a fair and impartial juror in a trial of
16 this type? You heard a brief description of what we're going
17 to have on trial here. What do you think?

18 **PROSPECTIVE JUROR:** It's -- it may be very hard for me
19 to give a fair decision. When you brought it up, I noticed
20 that, you know, the trauma started coming back. And I had to
21 ground myself and rethink, okay, because I've been through
22 therapy. So I tried to, you know, use my skills to ground
23 myself. And realize that this is not the case -- I am not a
24 victim and things of that nature. But I know that I'm still
25 going through it just because of the response that everybody

1 had.

2 **THE COURT:** Let me talk to the lawyers for a minute.

3 (Whereupon, the following conference was held at the
4 bench:)

5 **THE COURT:** Mr. Nieto.

6 **MR. NIETO:** Your Honor, respectfully I make a motion
7 to strike for cause.

8 **THE COURT:** Granted.

9 (Whereupon, the bench conference was concluded.)

10 **THE COURT:** Thank you, ma'am. You are excused. You
11 will not sit on this jury. You need not call back on Friday.
12 You're free to go. We'll send you out this door here, and you
13 can make a left turn at the hallway. And if you have to drop
14 by and say hi to your daughter-in-law, why don't you tell her
15 all of the compliments that were paid to her in this courtroom.

16 **PROSPECTIVE JUROR:** Thank you.

17 **THE COURT:** Good afternoon. You're juror 202; is that
18 right?

19 **PROSPECTIVE JUROR:** Yes, sir.

20 **THE COURT:** I'll be with you in just a second. Those
21 who are excluded from the courtroom may be readmitted.

22 You wear glasses but that's fine, right?

23 **PROSPECTIVE JUROR:** Yeah.

24 **THE COURT:** All fully corrected. You had a diagnosis
25 for ADHD. How does that affect things?

1 **PROSPECTIVE JUROR:** It's kind of hard to focus. I did
2 have a treatment for a while, the Adderall, but the shortage
3 and the fact that I don't have health insurance right now.

4 **THE COURT:** Yeah. Well, you'll have to tell me how
5 you think it would go. I mean, you sitting here for usually
6 two hours at a time. Take a break. Another couple of hours.
7 Four sessions a day. Two in the morning, two in the afternoon.
8 You know, you're listening to evidence, testimony, looking at
9 stuff on the screens.

10 Do you think you'd be able to maintain concentration?

11 **PROSPECTIVE JUROR:** I mean, it depends. Usually but,
12 you know, like for example when you're reading off the
13 questions, I did zone out a little there but it's not always
14 too bad.

15 **THE COURT:** So it is important I guess, not I guess,
16 for real, it's important that during a trial a juror be able to
17 maintain concentration and hear everything that comes in
18 because who knows when it's going to be maybe the critical
19 piece of evidence.

20 **PROSPECTIVE JUROR:** Right.

21 **THE COURT:** So I just really have to kind of rely on
22 your sense of it, you know.

23 **PROSPECTIVE JUROR:** Yeah.

24 **THE COURT:** Do you think that you got it enough under
25 control that we shouldn't worry about it? Or do you think

1 that, nah, it's kind of an issue, I can't promise that I'm
2 going to be able to maintain focus like everybody else all day
3 long.

4 **PROSPECTIVE JUROR:** It's a little of an issue. I used
5 to have an accommodation when I was in high school.

6 **THE COURT:** What was your accommodation?

7 **PROSPECTIVE JUROR:** Actually time on tests and for
8 school work.

9 **THE COURT:** Let me talk to the lawyers for a minute,
10 okay.

11 (Whereupon, the following conference was held at the
12 bench:)

13 **THE COURT:** Ms. McGuinn, what do you think?

14 **MS. MCGUINN:** I certainly see concerns, Your Honor.
15 At certain points it can be relatively fast-moving but it's
16 also, a lot of, as Your Honor can see, sitting and observing
17 videos and things of that nature so . . .

18 **THE COURT:** Thank you. Mr. Nieto?

19 **MR. NIETO:** No issues with this prospective juror.

20 **THE COURT:** Okay. Does the Government move to
21 disqualify him?

22 **MS. MCGUINN:** Yes, Your Honor.

23 **THE COURT:** I'm going to grant it for the reason that,
24 first of all, he owned the issue right upfront. I think he's
25 got some concern about it. Then he gives an example of during

1 the process that we've already conducted today that he, quote,
2 "zoned out," a little bit.

3 And then there's the fact that, perhaps things shouldn't
4 be this way, but the reality is we're not really in a position
5 to give accommodations of the type that he might need during
6 the course of the trial, which I imagine would involve a
7 shortening the sessions and actually getting feedback from him
8 on whether or not he was able to maintain concentration or not.

9 But, you know, I'll hear from the Defendant before I rule
10 finally with respect to that issue.

11 What are your thoughts?

12 **MR. NIETO:** Again, Your Honor, I understand the
13 Court's concerns. And I had a little trouble hearing him
14 because he was leaning back from the microphone, but I thought
15 I understood him to say he does take medication for it.

16 **THE COURT:** He did, but because of the Adderall
17 shortage he's not able to right now so he's not medicated and
18 that's one of his concerns.

19 **MR. NIETO:** I'll submit, Your Honor.

20 **THE COURT:** I think it's a close call. And I
21 certainly don't want to be presiding over a process that's
22 unfair to someone who has a disability that's not his fault and
23 is otherwise capable of serving; but the accommodation that
24 would be needed here I think is beyond the range of reasonable.
25 We would have to alter significantly how the trial was

1 conducted in order to accommodate this juror's issues.
2 Particularly when he needs Adderall, can't get it, and is
3 expressing his own concern about it, and is already telling us
4 he's already had some difficulty with a very minimal focus that
5 has been necessary to this point in this proceeding.
6 Accordingly, he is excused for cause on the Government's
7 motion.

8 (Whereupon, the bench conference was concluded.)

9 **THE COURT:** Thank you, sir. Thanks for telling us
10 about the ADHD. I'm going to go ahead and excuse you. It
11 might be a little bit of a challenge for you. I'm sorry about
12 that. And I hope that you understand we would otherwise think
13 you would be a perfectly well-qualified juror. But you've told
14 us about what your issues are, and not having access to the
15 Adderall, having some trouble maintaining focus on what's
16 already gone on today, I suppose that tells you and us
17 something that we should listen to.

18 **PROSPECTIVE JUROR:** All right.

19 **THE COURT:** So we'll go ahead and excuse you. You can
20 depart through that door right there, and you may depart and go
21 home. And you're not required to serve on this jury.

22 With that juror gone, let me also note for the record that
23 he had disclosed in response to Question 16, and the gallery
24 has been cleared, that his ex-roommate assaulted his landlord.
25 That his ex-roommate was arrested for possession of child

1 pornography. He calls it child porn.

2 Excuse me. My fault. Step out one second. Right behind
3 the door. We'll need you in about 20 minutes.

4 **MS. COHEN:** Sorry about that.

5 **THE COURT:** No problem. Then he goes on to explain
6 the response to Question 16E, ex-roommate was arrested for CP,
7 which I take to be child pornography given the earlier
8 reference. And I am focusing on these answers as well in
9 excusing this juror for cause.

10 Now 276. Thank you.

11 Ma'am, I will be with you in just a sec. Make yourself
12 comfortable. We will need you to be close to that microphone.

13 So the gallery has been cleared. You gave me a "yes"
14 answer to a couple of inquiries, 16E in particular.
15 Specifically in this case, the allegation include those of
16 sexual abuse. Has any member of your immediate family or
17 closest associates ever been a victim, a witness, accused or
18 convicted of a crime of a sexual nature? Answer: "Yes." And
19 then two initials are here. I can't tell if it's a B or a D
20 and M.

21 **PROSPECTIVE JUROR:** Yes. So it's a D and an M. The D
22 stood for my dad because he was actually accused of a sexual
23 crime. I wasn't even born yet. It was a long time ago. But
24 it was a false accusation.

25 And then the M today stood for my brother who was also

1 accused of a sexual crime but his was proven -- I don't know
2 what to say without making it sound bias, but he was convicted.

3 **THE COURT:** He was convicted?

4 **PROSPECTIVE JUROR:** Uh-huh.

5 **THE COURT:** Did he receive a penalty in relation to
6 that conviction? Did he receive a sentence?

7 **PROSPECTIVE JUROR:** I know he had probation. It was a
8 long time ago. Again, I was very little when it happened so
9 I'm not 100 percent sure all the details of it.

10 **THE COURT:** Okay. Do you think there's anything about
11 the false accusation brought against your father and the
12 stories you've heard about that, and the proven allegation
13 brought against your brother, the little you might know about
14 that, that would affect your ability to be a fair and impartial
15 juror if you were asked to sit as a juror in a case such as
16 this one?

17 **PROSPECTIVE JUROR:** I'm not 100 percent sure. I
18 mostly just put "yes" because there is that relation to it and
19 with this case. I would try to be fair only because the
20 accusations and the things that happened in my family in the
21 past was very much, like, I wasn't involved in it. So I don't
22 have very much judgment on that.

23 **THE COURT:** Yes. You also answered "yes" that there
24 might be something about viewing images of a sexual nature that
25 would make it difficult for you to render a fair and impartial

1 verdict. Do you have any additional thoughts about that?

2 **PROSPECTIVE JUROR:** Yeah. So that actually is in
3 relation to where I work because I work in childcare and so I'm
4 with kids all the time.

5 (Audio feedback)

6 **PROSPECTIVE JUROR:** I don't know if I'm too close to
7 it. Sorry.

8 I just don't -- I don't think I would be comfortable
9 viewing the images of that, especially because I take care of
10 the kids all of the time. I prefer to see my kids happy. I
11 don't want to see pictures like that.

12 **THE COURT:** Yeah. Then there's the schedule of the
13 trial that presents an issue or problem for you. Tell me about
14 that.

15 **PROSPECTIVE JUROR:** So, again, I do work in school. I
16 work in a childcare facility and we're about to start our
17 school year. So the next -- really the next, like, three to
18 four weeks I'm, like, really focused on trying to get the
19 school year started with my new classroom and the children that
20 are starting. I'm just worried that it might get, like, the
21 conflict scheduling. Like, it might happen the week that the
22 first day of school is starting.

23 **THE COURT:** When is the first day of school?

24 **PROSPECTIVE JUROR:** For my school it starts
25 September 3rd.

1 **THE COURT:** Well, I think it's likely this trial will
2 extend into that time period. You are excused for cause. And
3 you may depart. Thank you, ma'am.

4 So, in general, we don't require teachers to serve during
5 the school term. I think she qualifies effectively as a
6 teacher. She's working in a childcare center. And coupled
7 with the other information that she supplied about what has
8 previously happened in her family, cumulatively, I think that
9 we've got too much of a burden here. And on the court's motion
10 this juror is excused for cause.

11 267.

12 Hello.

13 **PROSPECTIVE JUROR:** Hi.

14 **THE COURT:** I'm looking through your juror
15 questionnaire and I'm looking for your answers. And right away
16 I'm discovering response to Question 12 that your father was,
17 as you described it, a federal police officer.

18 And then in response to Question 14: Yes, your father was
19 sworn as a marshal for two federal trials.

20 What did your father did or what did he do?

21 **PROSPECTIVE JUROR:** Well, I -- he was -- he worked
22 security. I know he worked out at Woodlawn at the Social
23 Security Administration. As far as -- it wasn't until he
24 passed that I found out about the U.S. marshal because I found
25 the I.D.

1 **THE COURT:** So he had a special deputy U.S. marshal
2 commission at some point?

3 **PROSPECTIVE JUROR:** Yes.

4 **THE COURT:** But in terms of the nature of his work in
5 that regard, do you think it was mainly security at Social
6 Security in Woodlawn?

7 **PROSPECTIVE JUROR:** Yes.

8 **THE COURT:** You wear glasses but they correct your
9 vision?

10 **PROSPECTIVE JUROR:** Uh-huh.

11 **THE COURT:** And no other "yes" answers, correct?

12 **PROSPECTIVE JUROR:** Correct.

13 **THE COURT:** Anything about your father's service you
14 think as a security officer there at Social Security and his
15 possible appointment as a special deputy U.S. marshal that you
16 think might affect your ability to be a fair and impartial
17 juror if you were selected in this case?

18 **PROSPECTIVE JUROR:** No.

19 **THE COURT:** Okay. And you live here in Baltimore?

20 **PROSPECTIVE JUROR:** I live in Baltimore County.

21 **THE COURT:** In Baltimore County?

22 **PROSPECTIVE JUROR:** Uh-huh.

23 **THE COURT:** You work for a credit union.

24 **PROSPECTIVE JUROR:** Correct.

25 **THE COURT:** And you're a financial accountant?

1 **PROSPECTIVE JUROR:** Yes.

2 **THE COURT:** How long have you been done that kind of
3 work? Could you move a little closer to the mic. I'm sorry, I
4 know it's uncomfortable.

5 **PROSPECTIVE JUROR:** Well, I've been in the finance for
6 over 30 years, but I've been an accountant for probably 17
7 years, 18 years.

8 **THE COURT:** Okay. All right. And you're married?

9 **PROSPECTIVE JUROR:** Yes, sir.

10 **THE COURT:** What does your spouse do?

11 **PROSPECTIVE JUROR:** He works for McCormick's, the
12 spice company.

13 **THE COURT:** Quality control analyst or technician?

14 **PROSPECTIVE JUROR:** Uh-huh.

15 **THE COURT:** Does he come home smelling like spice?

16 **PROSPECTIVE JUROR:** Sometimes it's good and sometimes
17 it's not so good.

18 (Laughter.)

19 **THE COURT:** I happen to live in that area. It's
20 pretty interesting some days you're out there taking a walk and
21 hmm?

22 **PROSPECTIVE JUROR:** What do I smell today? or regular
23 know.

24 **THE COURT:** Oregano.

25 (Laughter.)

1 THE COURT: Do you have kids?

2 PROSPECTIVE JUROR: I have three.

3 THE COURT: How old are they?

4 PROSPECTIVE JUROR: 35, 32 and 21.

5 THE COURT: What do your kids do?

6 PROSPECTIVE JUROR: Two of them are stay-at-home moms.

7 And my son is enrolled in Columbia University in South
8 Carolina.

9 THE COURT: What's he studying?

10 PROSPECTIVE JUROR: Engineering.

11 THE COURT: What do you like to do in your spare time?

12 PROSPECTIVE JUROR: I cook. I scrapbook. The beach
13 is like our favorite place to go and I look for seashells.

14 THE COURT: What's your favorite beach?

15 PROSPECTIVE JUROR: Marco Island and South Beach.

16 THE COURT: Oh, you've got high standards. Okay. Let
17 me talk to the lawyers for a second.

18 (Whereupon, the following conference was held at the
19 bench:)

20 THE COURT: Government have any issues or questions in
21 light of mine?

22 MS. MCGUINN: No, Your Honor.

23 THE COURT: Mr. Nieto, the Defendant?

24 MR. NIETO: No, Your Honor.

25 THE COURT: Thank you.

1 (Whereupon, the bench conference was concluded.)

2 **THE COURT:** Thank you, ma'am. You may return to
3 courtroom 1B. Appreciate your participation in our process.

4 264 is next. We've cleared the gallery.

5 Good afternoon.

6 **PROSPECTIVE JUROR:** Hello.

7 **THE COURT:** And I'm looking through your juror
8 questionnaire and let's turn to Question 16F: The defendant in
9 this case is Asian American, do you hold any beliefs related to
10 race, color, religion, national origin or other personal
11 attributes that would make it difficult for you to render a
12 fair and impartial based solely on the evidence and the law?

13 Answer: "Yes, I don't believe Asians should be in
14 America. They bombed Pearl Harbor and killed many American
15 soldiers. And I believe this Asian is guilty."

16 Sir, I find your views repugnant. But you're excused.
17 You may leave.

18 **PROSPECTIVE JUROR:** Which way? This way?

19 **THE COURT:** Either way is fine. Follow the clerk.

20 264 is excused for cause based blatant hostility against
21 the Defendant solely based on the Defendant's race that has
22 absolutely no place in an American courtroom. It is offensive
23 beyond words.

24 Hello.

25 **PROSPECTIVE JUROR:** Hi.

1 **THE COURT:** Give me a minute to catch up. I'm looking
2 through your questionnaire a moment.

3 **PROSPECTIVE JUROR:** Sure.

4 **THE COURT:** Let the record reflect that the gallery
5 has been cleared and only the direct participants in this
6 proceeding are present.

7 Ma'am, thank you for your candid answers in response to
8 our questions on this questionnaire. I want to just
9 immediately move to your "yes" response to Question 10. A few
10 minutes ago you heard me give a very brief description of this
11 case. Is there anything in that brief description that made
12 you realize it would be difficult for you to keep an open mind
13 and serve as a fair and impartial juror in the trial in this
14 case? Your response is: "Yes. Sexually assaulted as a child.
15 And parent of young children."

16 Did I correctly read your response to that question?

17 **PROSPECTIVE JUROR:** Yes, yes.

18 **THE COURT:** And so you suffered some kind of sexual
19 assault, victimization yourself as a child.

20 **PROSPECTIVE JUROR:** Yes.

21 **THE COURT:** Would that make it difficult for you to
22 serve as a juror --

23 **PROSPECTIVE JUROR:** Yes.

24 **THE COURT:** -- as a trial in this type?

25 **PROSPECTIVE JUROR:** Yes.

1 **THE COURT:** Thank you. Let me talk to the lawyers for
2 a moment.

3 (Whereupon, the following conference was held at the
4 bench:)

5 **THE COURT:** Mr. Nieto.

6 **MR. NIETO:** Your Honor, I make a motion to strike for
7 cause.

8 **THE COURT:** Granted.

9 (Whereupon, the bench conference was concluded.)

10 **THE COURT:** Thank you, ma'am. I'm sorry for your
11 prior history. You are excused. You may depart right through
12 that door. Go to the hallway, make a left turn, and you may
13 depart.

14 **PROSPECTIVE JUROR:** Thank you.

15 **THE COURT:** Thank you, ma'am.

16 255. I'll be with you in just a second, ma'am.

17 You wear glasses?

18 **PROSPECTIVE JUROR:** Yes.

19 **THE COURT:** You don't have them on today?

20 **PROSPECTIVE JUROR:** They're reading glasses. I had
21 them on earlier.

22 **THE COURT:** Your vision for distance is fine, and if
23 you need to read something you pull your glasses out?

24 **PROSPECTIVE JUROR:** Yes.

25 **THE COURT:** I think we have two things to discuss,

1 tell me if you disagree. First, someone who used to work here.

2 **PROSPECTIVE JUROR:** Yeah, my mother.

3 **THE COURT:** And then second, victimization.

4 **PROSPECTIVE JUROR:** Yes.

5 **THE COURT:** Let's talk about the employment first. I
6 want to correctly pronounce --

7 **PROSPECTIVE JUROR:** Yanlei (phonetic).

8 **THE COURT:** Your mother worked in the finance office
9 here in the U.S. District Court?

10 **PROSPECTIVE JUROR:** Yes.

11 **THE COURT:** Right here in this building?

12 **PROSPECTIVE JUROR:** Yes.

13 **THE COURT:** She retired in 2001, about 23 years ago.
14 Sound right?

15 **PROSPECTIVE JUROR:** Yes.

16 **THE COURT:** Is your mother still living?

17 **PROSPECTIVE JUROR:** Yes.

18 **THE COURT:** I hope she's well.

19 **PROSPECTIVE JUROR:** She is.

20 **THE COURT:** Tell her her former colleague wishes her
21 well.

22 Anything about the fact that she worked here 23 years ago
23 and before that that you think would affect your ability to be
24 a fair and impartial juror if you were picked in this case?

25 **PROSPECTIVE JUROR:** No.

1 **THE COURT:** Thank you. Now, have you or any member of
2 your immediate family or close associates ever been the victim
3 of a crime? And then three names are listed here.

4 **PROSPECTIVE JUROR:** Nicole Bizzle (phonetic), that's
5 my sister. She was sexually assaulted going to work. She
6 worked at 1 East Pratt. My mom was mugged coming work here.
7 And my grandmother, her house was broken into, that was in
8 1972.

9 **THE COURT:** Your sister was assaulted?

10 **PROSPECTIVE JUROR:** Yes.

11 **THE COURT:** How long ago was that?

12 **PROSPECTIVE JUROR:** Maybe probably close to 17 years
13 ago.

14 **THE COURT:** Seventeen years ago?

15 **PROSPECTIVE JUROR:** Uh-huh.

16 **THE COURT:** Was anyone apprehended?

17 **PROSPECTIVE JUROR:** Yes.

18 **THE COURT:** Did your sister go to court?

19 **PROSPECTIVE JUROR:** She filed charges. There was a
20 second woman who was assaulted who was going to file but ended
21 up not filing so they didn't have a case.

22 **THE COURT:** Okay. So you heard generally what this
23 trial is about?

24 **PROSPECTIVE JUROR:** Yes.

25 **THE COURT:** These are accusations. Nothing has been

1 proven. In fact, the defendant enjoys the presumption of
2 innocence and that presumption remains with him throughout this
3 proceeding unless and until the Government over the course of
4 the trial is able to demonstrate to the satisfaction of the
5 jurors, all of them, that he's guilty beyond a reasonable
6 doubt. Otherwise, under our law he's not guilty and needs to
7 be acquitted.

8 Is there anything about the incident with your sister in
9 particular, but the other two victimization experiences as
10 well, that you think would make it difficult for you to enforce
11 the law as I've just described it to you and serve as a fair
12 and impartial juror? Hold the Government to their burden?

13 **PROSPECTIVE JUROR:** No.

14 **THE COURT:** Every case is separate and different.
15 Each case has its own facts and circumstances. Just because
16 something happened in a particular case doesn't mean that
17 anything happened in any other case. Do you agree with that
18 proposition?

19 **PROSPECTIVE JUROR:** Yes.

20 **THE COURT:** Okay. So, bottom line, if you were
21 selected to serve, despite what experiences you've had in your
22 life and your family, do you believe you could be fair and
23 impartial?

24 **PROSPECTIVE JUROR:** Yes.

25 **THE COURT:** I don't see any other "yes" answers to

1 your questions. You work at APL?

2 **PROSPECTIVE JUROR:** Yes.

3 **THE COURT:** So do you commute down there?

4 **PROSPECTIVE JUROR:** I do.

5 **THE COURT:** What kind of a position? Are you a
6 physicist yourself?

7 **PROSPECTIVE JUROR:** I'm an analyst.

8 **THE COURT:** You're an analyst. Looking at scientific
9 data --

10 **PROSPECTIVE JUROR:** Looking at data.

11 **THE COURT:** Looking at data. How long you been doing
12 that sort of work?

13 **PROSPECTIVE JUROR:** Thirteen years.

14 **THE COURT:** Tell us about your educational background?

15 **PROSPECTIVE JUROR:** I have a bachelor's from Towson
16 State in mass communication with a minor in English. I have a
17 bachelor's from College of Notre Dame in computer information
18 systems. I started an MBA at Loyola, and I had started MPS,
19 which is cybersecurity, at UBMC, but I haven't finished those.

20 **THE COURT:** Okay. You married?

21 **PROSPECTIVE JUROR:** No. Divorced.

22 **THE COURT:** You were once married? How long ago did
23 your marriage end?

24 **PROSPECTIVE JUROR:** 2016, December 14th was the
25 divorce.

1 **THE COURT:** Okay. And what did your spouse do during
2 the time of the marriage?

3 **PROSPECTIVE JUROR:** Military.

4 **THE COURT:** Uniformed service?

5 **PROSPECTIVE JUROR:** Yes.

6 **THE COURT:** Branch?

7 **PROSPECTIVE JUROR:** National Guard.

8 **THE COURT:** MOS.

9 **PROSPECTIVE JUROR:** He was a ranked as NCO at the
10 time.

11 **THE COURT:** Got it. Kids?

12 **PROSPECTIVE JUROR:** Yes.

13 **THE COURT:** How many?

14 **PROSPECTIVE JUROR:** Two.

15 **THE COURT:** How old?

16 **PROSPECTIVE JUROR:** Twenty seven and 22.

17 **THE COURT:** What do they do?

18 **PROSPECTIVE JUROR:** My son's in the Army. He's
19 artillery. My daughter is a billing specialist for a doctor's
20 practice.

21 **THE COURT:** Okay. And all of the old jokes about the
22 hearing problems of people in the artillery, how is his
23 hearing?

24 **PROSPECTIVE JUROR:** He just joined in September.

25 **THE COURT:** Okay. Well, I hope all that stuff is just

1 fodder for jokes and not really true.

2 How's he like it?

3 **PROSPECTIVE JUROR:** He loves it.

4 **THE COURT:** Okay. Got it. What do you do in your
5 spare time? What do you do for fun?

6 **PROSPECTIVE JUROR:** A lot with my family. Garden.
7 Clean my house. Knit. I'm always doing something. I go out
8 with my friends. I'm just always going.

9 **THE COURT:** You're active?

10 **PROSPECTIVE JUROR:** Yes, I am.

11 **THE COURT:** Pardon me for a minute while I talk with
12 the lawyers.

13 (Whereupon, the following conference was held at the
14 bench:)

15 **THE COURT:** Government have any issues or questions in
16 light of mine?

17 **MS. MCGUINN:** No, Your Honor.

18 **THE COURT:** Mr. Nieto?

19 **MR. NIETO:** No, Your Honor.

20 (Whereupon, the bench conference was concluded.)

21 **THE COURT:** Thank you, ma'am. You may return to
22 courtroom 1B.

23 **PROSPECTIVE JUROR:** Okay, thank you.

24 **THE COURT:** Three more and we'll quit. 246.

25 Good afternoon, I'll be with you in just a second, ma'am.

1 **PROSPECTIVE JUROR:** Certainly.

2 **THE COURT:** I'm looking at your questionnaire.

3 **THE COURT:** Okay. Question 10: Yes, and the reason
4 is I'm a foster care social worker who works with
5 sex-trafficked youth.

6 **PROSPECTIVE JUROR:** And sexually abused youth, yes.

7 **THE COURT:** How long you been in that line of work?

8 **PROSPECTIVE JUROR:** In this position for eight and a
9 half years.

10 **THE COURT:** Okay. And you have a sense of what this
11 trial is about from the very brief description that I gave you
12 on the front end?

13 **PROSPECTIVE JUROR:** Yes.

14 **THE COURT:** And do you think that a trial where
15 someone has been accused of the sexual exploitation of minors,
16 child pornography offenses or cyberstalking would be difficult
17 for you to sort of manage on a fair and impartial basis?

18 **PROSPECTIVE JUROR:** I believe so because I'm working
19 with the victims.

20 **THE COURT:** Yeah.

21 **PROSPECTIVE JUROR:** Yeah.

22 **THE COURT:** Do you think it might color your judgment
23 in terms of how you heard the evidence and where your --

24 **PROSPECTIVE JUROR:** I would be afraid that that would
25 happen because I'm usually very impartial. I'm a social

1 worker, but because I work with sexually abused victims and
2 sex-trafficking victims, I don't want to be partial.

3 **THE COURT:** Got it. Bear with me for a second while a
4 talk with the lawyers.

5 **PROSPECTIVE JUROR:** Certainly.

6 (Whereupon, the following conference was held at the
7 bench:)

8 **THE COURT:** Mr. Nieto?

9 **MR. NIETO:** Your Honor, I make a strike for cause,
10 please.

11 **THE COURT:** Granted.

12 (Whereupon, the bench conference was concluded.)

13 **THE COURT:** Ma'am, you are excused and you're not
14 going to sit on this trial. We'll ask you to sit on some other
15 one sometime.

16 **PROSPECTIVE JUROR:** Thank you very much.

17 **THE COURT:** But not this case.

18 **PROSPECTIVE JUROR:** Okay.

19 **THE COURT:** You may depart.

20 **PROSPECTIVE JUROR:** Thank you.

21 **THE COURT:** 241. I'm going to ask you to move down to
22 the microphone, couple more seats. Thank you, sir.

23 Good afternoon to you.

24 **PROSPECTIVE JUROR:** Hi.

25 **THE COURT:** I'm looking at your questionnaire,

1 Question 16, Question 16A. Answer: "Yes." Have you or any
2 member of your immediate family, closest associates ever been
3 the victim of a crime? Answer: "Yes."

4 The gallery has been cleared.

5 "Assault, abuse, sexual." Can you tell me about that?

6 **PROSPECTIVE JUROR:** Yes, I was -- I was sexually
7 molested when I was 12 years old, it would have been around
8 1977, by a Catholic priest. And so it -- it was like a brief
9 incident. It was, like, on a camping trip. And I don't know
10 what actions were taken. I told my mother about it. And she
11 apparently talked to the local parish priest about it, and I
12 don't know what became of the matter after that.

13 **THE COURT:** Okay. Let me talk to the lawyers for a
14 minute.

15 (Whereupon, the following conference was held at the
16 bench:)

17 **THE COURT:** Mr. Nieto?

18 **MR. NIETO:** Yes, Your Honor. Respectfully, I'd make a
19 motion to strike for cause.

20 **THE COURT:** Granted.

21 (Whereupon, the bench conference was concluded.)

22 **THE COURT:** Sir, we're not going to ask you to sit on
23 this jury.

24 **PROSPECTIVE JUROR:** Okay.

25 **THE COURT:** You're excused. You can depart. We'll

1 have you sit on a jury on some other kind of case. Thank you.
2 Thank you for being here today.

3 **PROSPECTIVE JUROR:** Okay.

4 **THE COURT:** Good afternoon, sir.

5 **PROSPECTIVE JUROR:** Good afternoon.

6 **THE COURT:** Bear with me for just a second. I'm
7 looking through your questionnaire here. So you have several
8 "yes" answers. First of all, you believe you've heard about
9 this case, Question Number 2. Tell me about that?

10 **PROSPECTIVE JUROR:** Well, I do watch the news. It's
11 been in the news. And so I'm aware of what happened from the
12 original charging. I knew that it was coming up.

13 And then my wife texted me this morning something that --
14 I didn't know what it was but she texted me something this
15 morning that -- why it was delayed today. That's what she
16 knew. Other than that, that's what I know.

17 **THE COURT:** Let me talk to the lawyers for a minute.

18 (Whereupon, the following conference was held at the
19 bench:)

20 **THE COURT:** Ms. McGuinn, is there any point in going
21 further with this?

22 **MS. MCGUINN:** I don't think so, Your Honor. I guess
23 you could ask if he could be fair and impartial but
24 particularly I'd be concerned if he knows the reason for the
25 delay.

1 **THE COURT:** Which he clearly does.

2 Mr. Nieto?

3 **MR. NIETO:** Your Honor, respectfully, we would make a
4 motion to strike for cause.

5 **THE COURT:** Based on his disclosure of awareness of a
6 matter that I had hoped to keep away from the jury
7 circumstances attending to the Defendant's tardiness appearing
8 in court this morning. I think that information is potentially
9 prejudicial to the Defendant. We can't do a perfect job of
10 keeping information like that out of the information stream,
11 but he's owning it and we're here in jury selection. I think
12 we should do what we can and so the motion to excuse for cause
13 is granted.

14 (Whereupon, the bench conference was concluded.)

15 **THE COURT:** Thank you, sir. You're excused. We're
16 not going to ask you to sit on this jury.

17 **PROSPECTIVE JUROR:** Okay.

18 **THE COURT:** For the record, the juror is excused for
19 the reasons I just indicated. But, in addition, counsel should
20 know that he responded "yes" to Question 10. The brief
21 description of the case made him realize that it would be
22 difficult for him to keep an open mind and serve as a fair and
23 impartial juror in the case.

24 He answered "yes" to Question 16C: Have you or any member
25 of your immediate family or closest associates ever been

1 accused of criminal conduct, been the subject of criminal
2 investigation, and convicted of committing a crime? "Yes, both
3 kids."

4 18: Do you hold any philosophical or religious or moral
5 views that would prevent you from judging the conduct of
6 another person? First he answered "no," then he struck that
7 out and answered "yes."

8 23: Do you have any concerns or beliefs about laws
9 relating to crimes that involve children or laws relating to
10 crimes that involve sexual exploitation that would affect your
11 ability to render a fair and impartial verdict in this case?

12 Answer: Yes.

13 26: The defendant is presumed innocent unless and until a
14 jury find him guilty beyond a reasonable doubt. Are you unable
15 to accept that principle? First he marked "yes," and then
16 struck it out and answered "no." So presumably not a
17 problematic response.

18 No other "yes" answers.

19 But the totality of issues that would need to be explored
20 with him lends weight to the notion that it's likely that one
21 way or another he was not going to be qualified as a
22 prospective juror in the case. I'm not ruling on that basis.
23 I'm not ruling on those other bases because I didn't explore
24 them. But I do think it's relevant and counsel should know
25 about them. He was excused for reasons stated on the record.

1 Okay. That leaves us at 11, correct?

2 **THE CLERK:** Yes.

3 **THE COURT:** We've got to get to 36 so we need 25.
4 Hopefully we can get a jury tomorrow if we get a good, early
5 start and that will be our intention.

6 There is the matter of your client's attendance tomorrow.
7 Do you know his position?

8 **MR. PROCTOR:** Can I have a moment? Mr. Bendann does
9 not request to be absented from court tomorrow?

10 **THE COURT:** He requests.

11 **MR. PROCTOR:** To not be here, to be absented.

12 **THE COURT:** He does not want to attend? He
13 exercises -- well, he makes a request under Rule 43(c) to be
14 permitted to waive his right to be present during tomorrow's
15 jury trial proceedings; is that correct?

16 **MR. PROCTOR:** That's correct. And we have a paralegal
17 going to the jail tonight when he gets back. If he changes his
18 mind, I will promptly inform chambers.

19 **THE COURT:** Okay. Very good. And generally we will
20 rely on counsel to tell us where this stands, but, Mr. Bendann,
21 you're here yourself. Is that your decision?

22 **THE DEFENDANT:** Based on circumstances, yes.

23 **THE COURT:** Okay. Very well. The Defendant's
24 presence is waived. But we need to conduct one more piece of
25 business here.

1 MS. MCGUINN: Well, and can I be heard just briefly on
2 that because depending where we end up tomorrow, and what
3 witnesses would be called, I don't want there to be any
4 confusion that the Government has not been anything but
5 forthright about the order of witnesses.

6 THE COURT: Fair enough. Who would be your first
7 witness?

8 MS. MCGUINN: So I guess the first question is, does
9 Your Honor have an expectation that we might have a jury seated
10 by lunch, proceed to opening and --

11 THE COURT: Almost impossible given that we still need
12 25 jurors and have only got 11 done. Anything is possible, but
13 I think it's extremely unlikely.

14 MS. MCGUINN: Okay. So as Your Honor would -- can
15 appreciate, we're obviously now juggling a different schedule.
16 I have always told counsel the first two witnesses after
17 opening would be [REDACTED] and [REDACTED] who are the
18 parents of the minor victim.

19 THE COURT: Yep.

20 MS. MCGUINN: Even with the shuffling, we do
21 anticipate they would go first even if we don't start calling
22 witnesses until Monday morning or excuse me, Friday morning.

23 THE COURT: Yep.

24 MS. MCGUINN: But if we get started tomorrow, and he's
25 not here, I don't want there to be any confusion that the

1 Government has done anything and anybody has been not told
2 something, or if we get through two witnesses after that, I
3 just don't know.

4 **THE COURT:** Well, this all falls within the scope of
5 the advisement that was given to the Defendant this morning.

6 **MS. MCGUINN:** Yes.

7 **THE COURT:** Trials are inherently unpredictable
8 events. Lawyers constantly scramble telling witnesses "You
9 have to be here this time," and then telling them "Oh, no, you
10 don't have to be here this time, it's changed," and we went
11 over that at some length this morning.

12 So I think Mr. Bendann has been fully advised in that
13 regard. I'll just say this, that a decision to not be present
14 tomorrow, to not be brought over, that applies for the full
15 day. We don't do it in segments. If you elect to not be here
16 tomorrow, you're not going to be here at any time tomorrow.

17 My expectation is tomorrow will be mostly, if not
18 entirely, taken up with jury selection just based on where we
19 are on numbers. But it's possible that somehow things could
20 leap ahead and we could succeed in seating a jury. In which
21 case I would expect counsel to be ready to move into their
22 opening statements. And in the extremely unlikely scenario
23 where we got the opening statements done, and there was still
24 time left in the trial day, then we would move into the
25 presentation of trial evidence. I don't think that is likely.

1 In fact, I don't think it's likely at all, but I will not rule
2 it out. And if we find ourselves in that scenario then that's
3 where we're going to go. That's what we're going to do.

4 Do you understand, Mr. Bendann?

5 **THE DEFENDANT:** Yes. May I make a comment?

6 **THE COURT:** No. You should talk to your lawyers
7 before you say anything in open court. We're rolling now.

8 **THE DEFENDANT:** It has to do with circumstances of my
9 attendance.

10 **THE COURT:** Well, tell your lawyer and we'll see if
11 that should be aired out here in open court.

12 I do want to conduct a *Laflier-Frye* hearing, which our
13 inquiry this morning suggested had not yet occurred in this
14 case. It is imperative. It's something that needs to happen.

15 Mr. Bendann, during the course of your case and trial you
16 are entitled to the effective assistance of counsel under the
17 Sixth Amendment to the United States Constitution. Our Supreme
18 Court has ruled that your right to effective assistance
19 includes representation that is effective in the time period
20 prior to when a trial actually commences, and, in fact, one of
21 the most significant things that occurs in American criminal
22 cases, particularly in federal court, during the pretrial phase
23 of a case is that there is frequently so-called plea bargaining
24 that goes on between the two sides. It's not by no means
25 mandatory that there be plea bargaining. It's just that it is

1 common and it frequently happens.

2 In plea bargaining, the Government will make an offer to a
3 defendant. Generally, that offer will contain the option for
4 the defendant to plead guilty to less than all of the charges
5 that he or she is facing or a lesser-included offense.
6 Something that is thought to perhaps carry with it the
7 possibility, even the likelihood, that the consequences for the
8 defendant might be less severe than if the Defendant were to
9 proceed to trial on all of the charges and then be convicted on
10 all of the charges.

11 Now, much of this is indefinite and subject to the
12 opinions and the advice and the expertise of lawyers on both
13 sides in terms of what actually occurs; but the empirical fact
14 is that over 90 percent of federal criminal cases are resolved
15 through this sort of bargaining process and through plea
16 bargains.

17 And our Supreme Court has found that a defendant is
18 entitled not just to the effective assistance of a lawyer
19 during the in-court part of his proceedings, the trial, the
20 sentencing, the appeal and so forth, but is also entitled to
21 the effective assistance of counsel in this plea bargaining
22 process, this pretrial process.

23 Accordingly, I want to make a record here today on the
24 question of whether or not there has, in the life of this case,
25 been a plea agreement offer by the Government to the Defendant;

1 whether or not such a plea, if offered, was ever communicated
2 to the Defendant. If it was offered, and if it was
3 communicated, was the Defendant through his attorney given an
4 opportunity to respond to that offer and to state his position
5 with respect to all of that. There's certainly no
6 constitutional right to a plea bargain. There's no
7 constitutional right to a particular way in which the
8 bargaining process might occur. There's no constitutional
9 right to plea negotiations. It's just that if that has gone on
10 in the life of a case, then the Defendant is entitled to
11 effective representation by a lawyer during that process.

12 So here's how we will proceed. The first question is
13 this: Listen to my questions very carefully, Counsel, I do not
14 want to violate Rule 11. I do not want to insert myself into
15 any plea bargaining process and will absolutely endeavor not to
16 do so. So just answer the question that you're asked and no
17 more than that.

18 Ms. McGuinn, was the Defendant extended a plea offer
19 during the life of this case?

20 **MS. MCGUINN:** There was a non-written, informal offer
21 conveyed and some discussion surrounding that with defense
22 counsel.

23 **THE COURT:** When did that happen, approximately?

24 **MS. MCGUINN:** It was in the earlier part of the
25 spring, Your Honor, prior to motions. It's actually the

1 reasons we bumped motions from March to that -- when we had
2 them on May 8th or 9th. So I would estimate it was somewhere
3 in March and April. Maybe mostly March because at some point
4 we had to cut off and move forward with filing motions.

5 **THE COURT:** Who did you extend that plea offer to?

6 **MS. MCGUINN:** It was via I believe email to both
7 counsel and some phone discussions with Mr. Nieto.

8 **THE COURT:** Now off the record, outside of my hearing,
9 please move to a neutral position of the courtroom, speak with
10 Mr. Nieto, and then I'll ask both of you whether you agree on
11 the nature and the terms that were offered by Ms. McGuinn to
12 Mr. Nieto.

13 We're off the record.

14 (Counsel conferring.)

15 **THE COURT:** Back on the record. Mr. Nieto, have you
16 had a confidential conversation with Ms. McGuinn outside of my
17 hearing in reference to her suggestion that she extended a plea
18 offer to your client through you earlier this year, perhaps
19 during the springtime?

20 **MR. NIETO:** Yes, Your Honor.

21 **THE COURT:** Did you find that in your confidential
22 conversation with Ms. McGuinn that you agreed with her summary
23 of the offer that was extended and that it was -- her comments
24 to you were accurate?

25 **MR. NIETO:** Yes, Your Honor.

1 **THE COURT:** And then, Mr. Nieto, did you communicate
2 the terms of that offer to your client, Mr. Bendann?

3 **MR. NIETO:** Obviously, Your Honor, not to violate
4 attorney-client privilege, you know, we understand, both
5 Mr. Proctor and I, our responsibilities under professional
6 rules with regards to plea offers.

7 **THE COURT:** I'm going to take that as an affirmative
8 response because you are constitutionally required to
9 communicate a plea offer from the Government to your client.
10 And you're telling me that you have discharged your
11 responsibilities under the Constitution.

12 Do you understand the inference that I'm drawing?

13 **MR. NIETO:** Yes, Your Honor.

14 **THE COURT:** Do you object to my drawing that
15 inference?

16 **MR. NIETO:** No, Your Honor.

17 **THE COURT:** To the extent it was professionally
18 appropriate in light of your assessment of where your client
19 stood, all of the circumstances and realities of this case and
20 so forth, did you take all of that into account and to the
21 extent that it was appropriate to do so professionally, did you
22 respond to the Government's plea offer?

23 **MR. NIETO:** Yes, Your Honor.

24 **THE COURT:** Mr. Proctor, do you have anything to say
25 in relation to the issues that we're discussing?

1 **MR. PROCTOR:** The plea offer, Your Honor?

2 **THE COURT:** No. Just the fact that -- the *Lafler*
3 hearing -- what I'm trying to do is make a record on the
4 question of whether or not there was constitutionally
5 sufficient service provided to your client in the pretrial
6 phase of this case with specific reference to the plea
7 negotiation process.

8 **MR. PROCTOR:** Your Honor, we all know what the Rules
9 of Profession Conduct say. I think it's 1.4, the duty to have
10 a continuing disclosure with your client and convey all
11 relevant information. And I have no reason to believe that we
12 did not discharge that duty in this case.

13 **THE COURT:** Okay. Does the Government have any
14 concerns in this regard?

15 **MS. MCGUINN:** No, Your Honor.

16 **THE COURT:** Is the Government satisfied with the
17 *Lafler-Frye* hearing that the court has just conducted?

18 **MS. MCGUINN:** Yes, Your Honor.

19 **THE COURT:** Is the Defendant satisfied, Mr. Nieto, or
20 do you have any objection as to how we proceeded this evening?

21 **MR. NIETO:** Again, Your Honor, respectfully, we did
22 not request such a hearing.

23 **THE COURT:** No, you didn't. But I'm nonetheless
24 required to hold one. So it's a simple, direct question. Do
25 you have any objection to my conclusion that I have now

1 successfully conducted a *Laflier-Frye* hearing?

2 MR. NIETO: No, Your Honor.

3 THE COURT: Thank you.

4 Anything else before we end first evening, Ms. McGuinn?

5 MS. MCGUINN: No, Your Honor. Our best guess though
6 is that we will pick a jury, maybe get to opening. The
7 Government anticipates having one or two witnesses who are
8 local on standby but I just wanted to make sure --

9 THE COURT: Oh, my absolutely best guess is that we're
10 still going to be picking a jury on Friday morning. I'm going
11 to do my best to make sure that that's not the situation that
12 we are in.

13 MS. MCGUINN: Yes, Your Honor.

14 THE COURT: But you're asking for my projection based
15 on my life experience?

16 MS. MCGUINN: Yes, sir.

17 THE COURT: Friday morning, still picking a jury.

18 MS. MCGUINN: Yes, sir.

19 THE COURT: I hope not.

20 Anything else, ma'am?

21 MS. MCGUINN: No, Your Honor.

22 THE COURT: Mr. Nieto, anything else?

23 MR. NIETO: No, Your Honor. Thank you.

24 THE COURT: I apologize.

25 I haven't excused the jurors. Stand by. We've got to

1 bring them in. Too many balls in the air. While we're waiting
2 for them to come in, I'll see counsel at the bench.

3 Off the record.

4 (Off the record.)

5 **THE COURT:** We're back on the record. Ladies and
6 gentlemen, we've come to the end of our court day, but we have
7 not yet completed the process of selecting a jury that will
8 serve in this case. Accordingly, you're going to be sent home
9 now and required to return tomorrow at 2:00 p.m. Your presence
10 is not required during the morning, but we do require it at
11 2:00 p.m.

12 At 2:00 p.m. you should come to the fourth floor where you
13 checked in this morning. Once you're checked in there, you'll
14 be brought back to courtroom 1B for further proceedings.

15 Overnight, do not discuss this case with anyone. Do not
16 discuss it with your -- the persons that you've met on jury
17 duty today. Do not discuss it with any of your friends, your
18 family members, your employers. No one at all. You may say
19 that you have been summoned for jury service in federal court.
20 That you are required to return tomorrow. That you are a
21 candidate for selection to serve as a juror in a criminal case.
22 But you may not say what case it is, you may not say what the
23 charges are in the case, you may not identify the judge, the
24 lawyers, the parties, the defendant, anyone by name who is
25 involved in the case. If your family or employers or whatever

1 are persistent, as would be the case in my house, you're going
2 to have to respond to them by saying, "Listen, the judge just
3 told us flat, we're not allowed to say." The reason for this
4 is we don't want your thinking about anything relative to this
5 case to be influenced by the opinions of anyone else, even a
6 loved one that you might otherwise trust in the most important
7 affairs of life. But that person isn't on the jury. And they
8 haven't been called for jury service.

9 So you have to keep spouses, children, parents, neighbors,
10 employers, television personalities, whomever, out of this
11 process, out of your mind. And the way you do that is you
12 don't tell him. You don't tell him what you are involved in,
13 other than it's a criminal case in federal court, and other
14 than that I'm under a court order not to say anything to
15 anybody.

16 Do not allow yourselves to be exposed to any news articles
17 or reports that might touch upon this case or the issues it
18 presents or the participants in the trial. There may well be
19 consideration or attention paid to this in the media. I have
20 no idea. The safest approach is, you know, I guess the O's
21 aren't playing tonight. Do they play this afternoon?

22 **MR. PROCTOR:** They lost.

23 **THE COURT:** Oh, thanks.

24 (Laughter.)

25 **THE COURT:** Well, I can't invite you to go watch the

1 Yankees game or whatever. That would just be fundamentally
2 disloyal. Do something else that might entertain you that has
3 nothing to do with this case, the news of the day or whatever
4 else. And then, show up at 2:00 on the fourth floor tomorrow
5 ready to reengage with this process.

6 Avoid all contact of any kind with any of the participants
7 in the case. Do not make any independent investigation of the
8 law or the facts relevant to the case. Do not conduct internet
9 searches with respect to the issues present or the persons
10 participating in the trial. Do not consult an external source
11 such as an encyclopedia or dictionary in reference to the
12 issues or the terms that have been represented to you here.

13 You are excused to return to the fourth floor jury
14 assembly area at 2:00 p.m. tomorrow afternoon. You may depart.
15 Out you go. You can go right out that door.

16 I understand, ma'am, you weren't present. When you came
17 in the room, what was I saying?

18 **PROSPECTIVE JUROR:** That we're not to talk about the
19 case.

20 **THE COURT:** That's right. Do not discuss the case
21 with anyone. Do not discuss it with anybody who's on jury
22 service with you. Do not discuss it with any of your friends
23 or your family members. Just all you are allowed to say is
24 that you've been summoned for jury duty in federal court.
25 You're being considered for selection on a criminal case.

1 You're not allowed to say the name of the case, who's
2 participating in the case, or what the case is about. And then
3 just change the subject.

4 Can you handle that, ma'am?

5 **PROSPECTIVE JUROR:** I sure can.

6 **THE COURT:** Thank you. I appreciate you following
7 those instructions. You did hear what I said otherwise about
8 news coverage and avoiding all that?

9 **PROSPECTIVE JUROR:** Yes.

10 **THE COURT:** Okay, you are under that instruction.
11 You're excused. We'll see you at 2:00 tomorrow afternoon.
12 Thank you, ma'am.

13 And your juror no. is?

14 **PROSPECTIVE JUROR:** 329.

15 **THE COURT:** 329. Thank you, ma'am. You may depart.

16 All jurors have left the courtroom. The courtroom door is
17 closed.

18 Now, the Defendant is remanded to the custody of the
19 marshal. Was there some other matter?

20 **MR. PROCTOR:** Mr. Bendann would just like me to point
21 out to the court that in part his decision not to be here in
22 court is because he has sleep apnea that's untreated at the
23 jail. He hasn't eaten or drank since 6:00 this morning.

24 **THE COURT:** Was he provided with lunch?

25 **THE DEFENDANT:** I'm on the cardio diet and the diet

1 here in jail does not match to that.

2 **THE COURT:** What is a cardio diet?

3 **THE DEFENDANT:** I had a heart attack last summer, Your
4 Honor, and I'm supposed to avoid things with heavy cholesterol.
5 And the lunch provided here is four slices of white bread and
6 two pieces of government meat and a carton of milk.

7 **THE COURT:** Okay.

8 **THE DEFENDANT:** None of which I'm allowed to receive
9 at CDF.

10 **THE COURT:** What you are you fed at CDF?

11 **THE DEFENDANT:** Perhaps a chicken patty, tuna, hard
12 boiled eggs.

13 **THE COURT:** Hard boiled eggs? On a cardiodiet?

14 **THE DEFENDANT:** Yes. New medicine since the 1990s,
15 Your Honor.

16 **THE COURT:** Okay. Well, what sort of meal would you
17 care to receive during the noon hour when you are here?

18 **THE DEFENDANT:** Even something as simple as peanut
19 butter and jelly would be more acceptable?

20 **THE COURT:** How about salad?

21 **THE DEFENDANT:** That would be fine.

22 **THE COURT:** How about a salad topped with chicken?

23 **THE DEFENDANT:** That sounds great.

24 **THE COURT:** Okay. So unless the Government is able to
25 demonstrate to me that this information is not true, and that

1 the Defendant has not been placed on a special diet at the
2 place of detention, going forward the Defendant shall receive
3 at lunch a meal that is consistent with the diet that is
4 otherwise being followed for him in the detention facility.
5 And it strikes me that that would be achieved by a simple
6 process as going across the street to Cosi and ordering the
7 Caesar salad with chicken on top.

8 Would that meet your dietary needs?

9 **THE DEFENDANT:** That would be delightful.

10 **THE COURT:** Okay. That would be the meal that I will
11 direct the marshals to provide on those days when the Defendant
12 is present. In light of the fact that we're going to make that
13 accommodation on lunch, Mr. Bendann, do you wish to be present
14 tomorrow or not?

15 **THE DEFENDANT:** Yes. Could I add in the addition of
16 water?

17 **THE COURT:** Water?

18 **THE DEFENDANT:** Yes.

19 **THE COURT:** Yeah, well, you should be provided with
20 water regardless. I'm not saying it's going to be bottled
21 water. It may be Baltimore City water. But we will make sure
22 that you're provided with water.

23 **THE DEFENDANT:** Even a cup can be great. If I have a
24 cup I can get it from the sink.

25 **THE COURT:** Yeah, well, the marshals will provide the

1 Defendant with the meal that I have just described, plus water.
2 And, in light of that, the defendant revokes his waiver of his
3 right to be present during the trial tomorrow. And instead,
4 the marshals should plan to bring him here in time for to us
5 recommence jury selection -- what time did I tell those people?
6 9:15? They've got to be up there by 8:30. We'll plan to start
7 court by 9:15. Have him here by 9:15.

8 Anything else?

9 **MR. PROCTOR:** Nope. No, sir.

10 **THE COURT:** Okay. The Defendant is remanded. Counsel
11 are excused for the evening.

12 **THE CLERK:** All rise. This Honorable Court now stands
13 adjourned.

14 (Court adjourned at 5:53 p.m.)
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CERTIFICATE OF OFFICIAL REPORTER

I, Ronda J. Thomas, Registered Merit Reporter, Certified Realtime Reporter, in and for the United States District Court for the District of Maryland, do hereby certify, pursuant to 28 U.S.C. § 753, that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 19th day of March 2025.

Ronda J. Thomas

Ronda J. Thomas, RMR, CRR
Federal Official Reporter

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